



UCEA response to the Acas consultation on the predictable working pattern Code of Practice

Introduction

This response is from the Universities and Colleges Employers Association (UCEA) to the Acas consultation on predictable working pattern Code of Practice.

UCEA represents the views of higher education institutions (HEIs) across the UK in their capacity as employers. UCEA is a membership body funded by subscriptions from 172 HEIs in the UK. UCEA is the leading voice on employment and reward matters in the UK Higher Education sector. We support our members to be employers of choice through collaboration, advocacy and expert advice.

HEIs are independent employers and determine their own employment policies, often in consultation with recognised trade unions; therefore, there are a variety of HR practices in place in the sector. Our response is based on views provided by **48** of our member HE employers. Please note that we do not wish our response to be published. **We wish our response to be treated as confidential.**

Your details

1. Your name (required):

Hazel Lindley-Milton

2. Your email address (required):

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3. In what capacity are you responding to this consultation? (required)

Employer

Employer representative organisation, employer association or industry association

Trade union or other employee representative organisation

Other organisation – please describe: _____

About your organisation

1. Your organisation's name (required):

Universities and Colleges Employers Association (UCEA).

2. How many people does your organisation employ? Note: This is the number of people working in the whole organisation.

- Sole trader (0 employees)
- 0 to 9
- 10 to 49
- 50 to 249
- More than 250
- Don't know

3. How would you classify your organisation?

- Mainly seeking to make a profit
- A public sector organisation
- A social enterprise
- A charity, advocacy, voluntary or third sector organisation
- Don't know

4. If you are an employer representative organisation, employer association or industry association, approximately how many organisations do you represent?

172.

5. If you are a trade union or other employee representative organisation, approximately how many individual members do you represent?

N/A.

Consultation questions

We suggest a limit of 500 words for each question.

Question 1 of 12

Should the Code be split into 2 sections: one dedicated to requests to employers, and another to requests to agencies or hirers?

Yes

No

Don't know

Please explain the reasoning for your answer.

UCEA agrees that the Code should be split into two distinct sections for clarity, ease of understanding and simplicity, given the considerable differences in both employment arrangements and processes between employers and agencies or hirers. Two sections will help ensure that there is emphasis on the rights of workers while also making the responsibilities of employers explicit.

Splitting the Code into two distinct sections makes it very clear which section is applicable to whom and will help ensure that the Code is easy to navigate and that it is easy for the different parties to locate the sections that are relevant to them and follow the correct process. It is valuable for each party to be able to clearly understand their roles and responsibilities and, in particular, it is helpful to be clear about to whom a request should be made and who has the responsibility to respond. The additional information set out in the relevant paragraphs is helpful.

Although having two sections means that the Code is lengthy, there are some differences in the process to follow for each of these parties and, therefore, it is sensible to separate the sections to ensure the correct process is followed and to ensure that each section is focused on the relevant audience. If the Code had one overarching text for all stakeholders, it would likely have a significant number of caveats, which readers may find confusing. However, as much of the information is repeated, there may be some elements that can be consolidated.

There is complexity around the employment status of employees/workers/agency workers and having two sections helps to separate the responsibilities and status of each group

and maintains the distinction between direct employment and engagement through agencies. Conflating these in the Code could unhelpfully erode understanding about the difference between the groups. Splitting the Code into two sections also serves as a useful reminder that the right to request extends to agencies and hirers.

Although an agency member of staff could work for a single employer, it is possible that an agency member of staff may be working for two or more employers and, therefore, it is important that agencies have clear guidance about how to handle what may be differing employment relationships and the requests from individuals.

Question 2 of 12

Is the term 'worker(s)' and its associated meaning under the 2 separate sections of the Code sufficiently easy to understand?

Yes

No

Don't know

If you answered 'yes' or 'don't know', please explain the reasoning for your answer.

UCEA agrees that the Code's use of the term 'worker(s)' and the two associated definitions of worker (as defined in paragraph 3) are clear, straightforward and easy to understand. The definitions at the beginning of sections A and B are also useful and the delineation between the two sections is simple to understand. The term 'worker' is used throughout the document in a clear and contextualised manner; the term has become relatively standard and is easily understood.

The definitions are clear and helpful for all parties in the application of the Code and to identify where responsibilities lie. It is important to ensure that the definition of 'workers' in this Code is consistent with other Acas guidance on 'workers'.

If you answered 'no', how should the Code differentiate between (a) employees and workers who are not agency workers and (b) agency workers?

N/A

Please explain the reasoning for your answer, and where appropriate, please include any suitable alternative terminology that you would like to see.

N/A

Question 3 of 12

Please set out any specific areas of the Code that you feel would benefit from further clarification.

Please include your reasoning and suggestions for improvement.

UCEA feels that the following areas would benefit from further clarification:

- A more definitive list of examples for the sort of requests that fall within the Code, to differentiate these requests from flexible working requests and to assist employers when considering requests. Adding some examples of requests and possible responses (whether in the Code or guidance) would be helpful.
- Whether the timescales in the Code would be better expressed in working days rather than calendar weeks, as this would allow practical implementation of various stages to be within a reasonable working period.
- The reasons for rejecting a request (with examples); this could be included in the non-statutory guidance.
- How to deal with multiple/competing requests.

- If an arrangement has been approved and it becomes apparent later that it is no longer in the best interest of the employer, any recommended approach to reviewing this. Flexible working policies often have trial periods; trial periods may be appropriate for predictable working pattern requests.
- Guidance on a scenario where an employer has a different role available on different terms and conditions (which may be on less favourable terms overall than the previous terms and conditions) but which offer the individual a more predictable working pattern. Might that be offered with the individual's agreement, without contravening the statutory right?
- The one-month decision period is tight, to ensure reasonable time for the meeting and decision, and any appeal to take place, particularly if the individual's working pattern means they are not always available to meet. Is there scope to treat 'decision period' as the initial decision not the appeal stage? Or to insert a statement into the Code to reflect that requests are 'usually' decided in one month, unless a longer timeframe is agreed between the individual and the employer. If any permissible delays to the decision period are permitted, such as a period of sickness absence, it would be helpful if these could be outlined in the Code (or included in the guidance).
- It would be helpful to have an expanded glossary of terms at the end of the document and a flowchart of the processes for Requests to employers (section A) and Requests to agencies or hirers (Section B).
- What the "date of request" is as this determines where the one-month time limit starts. Is it the "date of request" where the employee submits the written request or the date when the employer, agency or hirer receives the request? The "date of request" should be clarified to prevent a substantial impact on the one-month decision period in the event there is a delay between the employee submitting the request and the employer receiving it.
- More clarity on 'To make a statutory request, a worker must have worked for the employer at least once in the month in the period before the 26 weeks leading up to the day of the request' (paragraph 8) and 'To make a statutory request to an agency, a worker must have had a contract with the agency at some point in the month before the 26 weeks leading up to the day of the request' (paragraph 46). Is this the calendar month before the request is submitted or the immediate four-week period? This aspect of the eligibility requirements is very unclear.

- What 'reasonable' means in the context of the Code: 'the employer as not handled their request in a reasonable manner' (paragraphs 28-31) and when is their request to be accompanied...reasonable' (paragraph 33).
- The types of working patterns that 'lack predictability'. The current definition is far-reaching and it would, therefore, be helpful to have specific examples of what this would and would not apply to and what may/may not constitute predictability.
- How the Code applies to agency workers working for multiple employers.
- How the Code impacts on contract clauses (often seen in senior contracts) about the requirement to do additional hours as required.
- Any impact on rotas; whether the fact that there is a defined rota is sufficient.
- The burden of additional costs (paragraph 18) – what is the test here?
- How the process interlinks (or not) with the existing four-year rule for fixed term contracts regarding the right to permanency.
- The length of time for which an agreed pattern can be in place.

UCEA also requests clarification on the application of the Code to hourly-paid teaching staff. Many higher education institutions employ a significant number of hourly-paid teachers and it can be very challenging for some institutions to provide advance notice of hours of engagement. Requirements change year-on-year, based on factors such as fluctuating student demand for a particular course – for example an elective module. Is there scope to agreeing predictable working patterns for a year or a term? It would be useful to have some sector specific guidance on how to handle these requests. Furthermore, for hourly-paid teaching staff, the working pattern may vary from year-to-year, for example, 1.0FTE (full-time) hours might be delivered during October and May, with minimal or no teaching delivery over the summer months) for reasons such as student demand for a particular subject of study and/or start date choices made by new and continuing students.

Question 4 of 12

Does the Foreword to the Code set the right tone in encouraging responsible and fair use of flexible contracts, while summarising the key principles of good practice included in the Code?

Yes

No

Don't know

Please explain the reasoning for your answer.

UCEA agrees that the Foreword is clear and concise and sets the right tone, as well as acting as a reminder of the key principles of good practice that are set out within the Code. It is clear that the Foreword does not form part of the Code itself. The helpful introduction is important and it encourages employers to adopt fair and transparent practice, as well as highlighting where the reader can go if they need any further guidance. The Foreword also notes the use of the words 'must' and 'should,' to indicate where something is a legal requirement or best practice.

The Foreword balances the benefits of predictable working patterns for both workers and employers against the necessity of flexible contracts when used fairly and responsibly. The Foreword encourages open and meaningful discussions and the importance of clarity in communication of request decisions. It also places an emphasis on employers, agencies, and hirers, to accept a request unless there is a good reason not to.

The content is fair and balanced and does not sway towards either party; it remains factual, whilst providing some good examples of the advantages to both parties. It sets out the expectations of employers and workers, noting their competing priorities. The Foreword summarises the request process and recommendations for how these requests should be managed and considered.

Additionally, continuous review of arrangements is encouraged in relation to ensuring the interest of both employers and their workers. There is also encouragement to consider alternative options other than rejecting a request if there is a genuine business reason not to approve a request. This option considers both the needs of the organisation and the worker and offers an opportunity to explore alternative options through discussion. The

language within this section is friendly and encourages listening, openness and there appears to be a focus on finding solutions that work for both parties.

Question 5 of 12

Should the Code include a section on protections from detriment and dismissal?

Yes

No

Don't know

If you answered 'no' or 'don't know', please include your reasoning.

N/A

If you answered 'yes', should the example of ceasing or reducing hours, as a direct response to making a request for a predictable working pattern, be included in the Code? Or should this be included in the non-statutory guidance instead?

The Code

The non-statutory guidance

Neither the Code nor the non-statutory guidance

Don't know

Please explain your reasoning.

It is UCEA's view that the Code should include a section on protections from detriment and dismissal and that the example of ceasing or reducing hours, as a direct response to making a request for a predictable working pattern, should be included in the Code. It is important that an individual should have the confidence to make a request without the fear of detriment or dismissal. Having the confidence and the right environment to make a request fosters a good working relationship and the ability for the employer to engage with individuals on such a request.

Inclusion of the example of ceasing or reducing working hours in the Code gives a clear indication of the practice and standards of conduct that must be considered by courts and tribunals; placing this information within the Code, rather than within non-statutory guidance, would also ensure that an Employment Tribunal would take it into consideration when deliberating an outcome. Furthermore, this would give additional assurance to workers who may be afraid of making a claim and any subsequent detriment. There is also concern that if the example is only included within the non-statutory guidance then it may be missed or not adhered to.

If the Code is being used by smaller organisations, who may have less specialist knowledge on employment rights, it would be beneficial to include some guidance around detriment and dismissal, so they are aware of their responsibilities as a reasonable employer. A section on detriment and dismissal within the Code will also serve as a reminder of the obligations placed on employers/hirers/agencies and the necessary steps required when presented with a request for a predictable working pattern, including that they do not treat individuals who make a request less favourably as a result. It may also assist employers/hirers/agencies to reconsider their approach to a request if they were of a mind to decline it outright. We feel the Code is clear that no detriment has occurred where the cessation or reduction of hours has occurred for a legitimate business reason.

It is important to protect both the worker and the employer and for all parties to be clear what the parameters are. We feel that the examples are appropriate to include given the purpose of the Code is to provide both employers and workers with a clear understanding of the statutory rights surrounding requesting a predictable work pattern.

If you answered 'yes', please set out any other examples of detriment you would like to see included in either the Code or non-statutory guidance.

- Accessing training and time off to do so.
- Being overlooked for a promotion (or appointment to a different role in the organisation) or a development opportunity; for an individual not to be turned down for a promotion or development due to making a request.
- Offering unsociable working patterns as an alternative suggestion or changing the individual's working hours to a working pattern that may cause challenges with caring responsibilities.
- Harassment or bullying; not to be subjected to harassment or bullying due to making a request.
- Reduction in pay.

Question 6 of 12

What are the advantages and disadvantages of the Code recommending that workers should be allowed to be accompanied at meetings to discuss a request for a predictable working pattern?

Please include your reasoning.

Advantages

- Provides individuals with the support and confidence to make their request for a predictable working pattern and to present their case and to support both parties to find a mutually agreeable solution.
- May make an individual feel more supported and provides an opportunity for the companion to ask questions to seek further clarity, and to suggest alternative solutions. Provides reassurance and confidence to the employee that a fair process is being followed, which is transparent and open. Being accompanied can also ensure that an agreement can be reached at an earlier stage through dialogue and support.
- Can help facilitate an effective and constructive process, such as assisting the flow of the meeting (and ensuring it is conducted in a sufficiently formal manner) particularly if the companion is experienced.

- In situations where the individual is becoming overwhelmed, they may be more likely to take the offer of an adjournment from a companion rather than from their employer.
- Provides another perspective. A broader perspective (in particular from Trade Unions) can help an individual both frame a request but also be realistic about it. The companion can aid the discussion with the individual and capture information on their behalf during the meeting. A conclusion may be reached which would not have been possible without the companion's contribution. In the case of trade union representatives, they will have an overview of the workplace, the use of flexible arrangements by the employer and the potential impact on other staff.
- Could be a useful reasonable adjustment for individuals.
- Aligns with good employment practice and can maintain consistency with other employment policies/procedures that also offer the right to be accompanied. In particular, the Acas Code of Practice on handling in a reasonable manner requests to work flexibly includes the right for an employee to be accompanied.
- May help to balance the number of attendees, for instance, if the manager has the support of a notetaker or HR representative. The presence of a companion for the worker may ensure the meeting is conducted appropriately.

If the Code recommends that workers should be allowed to be accompanied at meetings to discuss a request for a predictable working pattern, it would be helpful if the Code could include a statement about the companion's role/remit at the meetings, and that it is consistent with other Acas Codes of Practice.

Disadvantages

- Possibly makes the whole process more time consuming for all involved due to the availability of participants; any delay to arranging the meeting could make it difficult to decide requests during the statutory one-month decision period. Adding a statement to the Code around flexibility to extend the deadline if agreed by both parties may be helpful. The Code or supporting non-statutory guidance could outline that employers can refuse the worker's choice of companion and ask them to choose an alternative companion who is available for the proposed meeting date (or for five working days after) to prevent significant delays.

- The time that it will take to arrange the meetings (including the availability of a companion) given the already tight timescales.
- Involving a third party could possibly add to the complexity of request, especially if the companion is not aware of the parameters of their role, lacks knowledge of the Code and does not have an understanding of the organisation and the sector in which it operates.
- For agency workers, there could be increased risk of breaches of confidential organisational information; if the accompanying worker does not work for the organisation then they are not subject to the terms and conditions of the organisation.
- Having someone at the meeting who is disruptive or not helpful to the process can be disadvantageous.
- The current wording (paragraphs 32-34) could be seen to suggest that workers should bring a companion; this may not be the norm in all organisations. More emphasis on why a companion would be beneficial would be helpful, such as by outlining what the companion could do.
- It could increase the workload of recognised Trade Union representatives and the amount of facility time afforded where they are representing employees who raise a request for predictable working.

Question 7 of 12

What is your opinion on the Code recommending the same categories of companion as those that are allowed in discipline and grievance meetings?

Please include your reasoning.

UCEA agrees with the recommendation of the same categories of companion as those that are allowed in discipline and grievance meetings; this provides consistency. Given that there is no statutory right to be accompanied at meetings held to discuss a predictable working pattern request and, instead, the right to be accompanied is good practice provides flexibility for employers. Defining who may act as a companion is helpful to set expectations and boundaries. There are clear advantages to employers, employees/workers and trade unions in the consistency of terminology and expectation. It would be helpful to briefly outline the role of the companion in the Code, in a way that is consistent with other Acas Codes.

Should an individual be a casual worker, such as with a varied flexible arrangement with limited hours, they may not have built a relationship with anyone who they would be comfortable to ask to accompany them. This could also potentially impact recognition agreements with the Trade Unions.

There may be difficulties in relation to agency workers and the availability of their representatives who may be more difficult to secure. They may also have less understanding of the context and the role in an organisation. Given that there is a possibility that the companion may be external to the organisation, it may be appropriate that the Code references that organisations can request that a confidentiality agreement is signed in order to provide protection from any breach of confidential information. In cases where companions are external, there may be a need to verify their professional identity. For these reasons, it is UCEA's view that an agency worker's companion should be employed by the hirer, unless exceptional circumstances apply, such as those in relation to making reasonable adjustments to ensure the individual can participate fully in the process.

Question 8 of 12

For agency workers, what are the practical considerations around the Code recommending that a companion may be a fellow worker from the agency, hirer or both?

Please include your reasoning.

UCEA feels that there are many practical considerations to be taken into account which are likely to be dependent on a range of factors, such as, the size and nature of the employer, its use of agency workers and any trade union recognition:

- This could be confusing as the companion could be from outside the employer and this may not normally be considered appropriate in the context of a work-based colleague. There might be a need to carefully tread if there are any commercially sensitive aspects to the request.
- Communication between agency and hirer and clarity around roles will be required to ensure there is no confusion.
- If an agency worker requests that someone from the hirer accompanies them, this may give rise to a potential conflict of interest and could make the process more complex.
- Should it be the case that staff from the agency can accompany the agency worker, this could be a conflict of interest. Agency staff could have limited insight into the hirer's day-to-day business. Employers are likely to be highly concerned about confidentiality.
- A companion from the hirer may have more insight into the worker's request, but for practical reasons it could be best if the companion could be from both.
- This may cause conflict where an employer recognises certain Trade Unions (TUs) and the agency worker wants to bring someone from a different TU to those recognised.
- There may be difficulties in coordinating availability which causes delays and impacts on the employer's ability to adhere to the one-month decision period. If a companion is a fellow worker from the agency, the employer could not expect to control or have accountability for the companion's attendance.
- It could also be clarified that that the right to be accompanied is the individual's choice, if they would find it beneficial, with an outline of the companion's roles and responsibilities. Further clarification as to who is chairing the meeting and providing any decisions would be useful, within the supporting guidance.
- Some employers will engage large numbers of agency workers and therefore, it could be relatively easy for an agency worker to be accompanied by another agency worker or colleague. However, there are also many employers who do not

hire large numbers of agency workers and therefore it could be challenging for an agency worker to be accompanied by a fellow agency worker. In addition, some agency workers will be lone workers or work unusual hours and it may not be easy for them to get to know other colleagues.

- It would be preferable for the companion from an agency to be one who also works on assignment with the same hirer. If not, they may not be familiar with the working practices and approach of the hirer. The term “fellow worker” needs to be more precisely defined.
- The Code should reference that consideration is given to the timing of the meeting to ensure that a fellow agency worker is able to attend and that they will not suffer a detriment by supporting a fellow worker.
- Practical issues require clarification, such as would agency workers receive aid to accompany, who would pay and who would agree the rate of pay, for how long and would the pay include preparation time.
- If the companion is external to the organisation, the issues of confidentiality and access to restricted workplace issues would likely arise. If the companion is based elsewhere, virtual meetings may be requested. It is important that the representative understands their role and is clear about their remit, which may be more of an issue if they are from an agency.

It is UCEA’s view that a companion, for an agency worker, should be employed by the hirer, unless exceptional circumstances apply, such as those in relation to making reasonable adjustments to ensure the individual can participate fully in the process.

Question 9 of 12

Should the Code recommend that employers, agencies and hirers provide any additional information which is reasonable to help explain why a request has been rejected?

Yes

No

Don't know

Please explain the reasoning for your answer.

UCEA agrees that the Code should recommend that any additional information which is reasonable is provided to help explain why a request has been rejected, to be transparent, clear and encourage open communication. It would be helpful if Acas could provide examples of the additional information that employers may be asked to provide to explain their decision to refuse a request for a predictable working pattern.

Provision of additional information supports that a request has been fully considered and transparency in decision-making. It's important that all factors concerning a refusal are articulated as this may influence whether the request proceeds to an appeal or the individual recognises that the facts mitigate against a regular working pattern. A clear rationale will also be helpful in considering any appeal. Sufficient explanation (any additional information requested should be reasonable, appropriate, and not exhaustive) should lead to better understanding of how decisions have been reached. It also requires managers to properly articulate the reasoning behind their decisions.

To enable a genuine appeal process, the individual needs to know what they are appealing against. This should save time in the appeal hearing and avoid misunderstandings which may otherwise have meant the individual would not have appealed. It should be clear that the rationale can be brief, if appropriate in the circumstances.

As the Code puts this forward as a recommendation rather than a requirement, employers, agencies and hirers have the flexibility to respond in the most appropriate way for them. It is important this remains as a recommendation, not a requirement.

Depending on the volume of requests, the requirement to provide additional information could potentially create an administrative burden, particularly for larger employers. However, it should also help to reduce the number of appeals and guide the individual in any future requests they may make.

Question 10 of 12

What are the advantages and disadvantages of the Code stipulating that, wherever possible, an appeal should be handled by a manager not previously involved with a request?

Please include your reasoning.

Advantages

- Allows for transparency in the appeal process and builds confidence that the appeal is being taken sufficiently seriously, by an independent and impartial manager; this can support the validity of the process. It is good practice to have a new perspective. It provides the opportunity to review the decisions taken, to ensure they have been decided upon appropriately.
- Removal of bias, or the perception of bias, in the decision-making process.
- This is common practice for appeal processes across other employment rights and reflects good practice allowing for a consistent, procedural approach; it is in the interest of natural justice.

Disadvantages

- It may be difficult for a manager who is completely impartial (potentially outside of the business area) to fully understand the implications for that area and to therefore make an informed decision.
- This could become problematic in a scenario involving an agency worker where a decision maker could potentially be a manager with no current involvement in the sector.
- Adding another tier to a business decision and creating the need to ensure that managers have the appropriate training to undertake an appeal.
- In a small organisation or a geographically dispersed one this may not be practical; it may be a struggle to find another manager who has not been involved with the request. There may be limited resources on who can undertake these matters; escalation to senior management may be required, which could delay the process.

Arrangements for casual workers may be challenging as the 'line manager' may be less obvious or more limited in terms of alternatives.

- Could result in a disproportionate amount of management time being spent on one case which is in effect straightforward.
- The phrase 'not previously involved' (paragraph 30 states 'handled by a manager who has not previously been involved in considering the request.') could be problematic without more precise definition. For example, a more senior manager may be aware of the request or have been consulted or updated on the process, without being directly or substantively involved; could they hear the appeal? Would this rule them out of hearing the appeal? UCEA's members are diverse, for example, some are small and specialist institutions and some have flatter management structures, and UCEA's view is that a one-size-fits-all approach should not be assumed.

Question 11 of 12

Should the Code include a section about the right to request flexible working?

Yes

No

Don't know

If you answered 'no' or 'don't know', please explain the reasoning for your answer.

N/A

If you answered 'yes', do you believe that paragraphs 14 to 16 in the draft Code provide sufficiently clear guidance on the interaction between the 2 rights?

Yes

No

Don't know

Please explain the reasoning for your answer.

UCEA believes that paragraphs 14 to 16 provide sufficiently clear guidance on the interaction between the two rights, which is well set out. The Code clarifies the link between the two rights clearly and links to the separate statutory code for flexible working.

Question 12 of 12

Please set out any other areas that you feel should be included in the Code or non-statutory guidance.

Please include your reasoning.

UCEA would welcome inclusion of the following areas:

- It would be helpful to have an expanded glossary of terms at the end of the document and a flowchart of the processes for Requests to employers (section A) and Requests to agencies or hirers (Section B).
- Greater clarity on the definition and rights of the different categories of 'Workers' and 'Employees' and how the code will apply in practice, as this may be challenging for employers.
- Further detail, in accordance with the law, as to where employers could justify the refusal of a request, whilst acting fairly.
- It would be beneficial if the non-statutory guidance provided could include:
 - Some worked through example scenarios of the different types of requests and outcomes and how they may differ, depending on to whom the request has been submitted.
 - Examples of working patterns.
 - Reasons to refuse a request.
 - Practical ways to manage the process and timelines.
 - Templates, such as a request form and template letters (for example, outcome letters).
 - Scenarios when predictable working pattern requests may be made, including practical real-life examples from all types of industry.
- Clarification as to whether temporary contracts, such as those covering maternity leave, fall into this scope.

- Guidance on how the right to request predictable working patterns would apply to hourly-paid members of staff, with an illustrated example.
- Further guidance around shift workers and how the right to request predictable working patterns will impact workforce planning in this regard,
- The ability to extend the time limits for the meeting should be included in the Code, as trying to arrange a meeting with a shift worker within the time limit stated may prove difficult if they only evenings and weekends or have other jobs elsewhere.
- Clarification on whether there can be a trial period for a predictable working pattern, similar to flexible working requests.
- The non-statutory guidance could helpfully provide information on how to deal with multiple requests, which may be in the same areas of work or coordinated requests across the workforce.
- Guidance around how a request should be considered when it would impact on others working in the area who have not submitted a request would be helpful – i.e. if making one person's working pattern more predictable would mean making others less predictable or reducing their hours, or making someone permanent or extending their contract and not doing the same for others working in the same area, where there may be an equalities impact.
- Guidance on how to calculate the level of predictable working which can be offered. For example, if a minimal number of hours can be offered as a predictable working pattern, then this could reduce/minimise the overall number of hours which can be offered. Guidance is requested on whether this would be permitted, or whether it could be considered a detriment.
- Clarification of what circumstances would fall into the scope of a flexible working request versus a predictable working request and more specificity in terms of what types of working patterns this relates to and more information on how it operates alongside flexible working requests.
- Where both requests for flexible working and predictable working are made, clarification on which takes precedence and which should be dealt with first.
- Section B Requests to agencies or hirers – some further information on how agencies and hirers should inform and consult each other about requests received.
- Occasions where workers/employees will have been offered ad hoc arrangements at their request, and any considerations that need to be made when offering these.

UCEA would welcome inclusion of guidance in relation to the following scenarios which arise in the Higher Education sector:

- How to manage requests where there is a genuine business reason that a role lacks predictability. For example, universities often have a number of workers/employees who are contracted/employed to cover, for example, ad hoc teaching

work or examining, which will commonly need to be ad hoc in nature, such as Post Graduate Teaching Assistants and Examiners (both of which can be employed on part-time (salaried) fixed-term contracts for a number of hours over the entirety of the contract).

- The employment of hourly-paid staff, who tend to work no longer than one semester/term, yet who return the following year for the same semester/term.
- University student intern schemes, which are intended to provide as many students as possible with work experience. For example, a scheme could allow students to work for a period of 6-12 months, on a whole university-wide basis or for specific research experience. There is concern that the Code could potentially prevent the turnover currently achieved if some students request predictable working patterns, which could impact the future of the scheme.

Send your response

Please email your response to consultations@acas.org.uk

If you need to submit your response in another way, email workplacepolicy@acas.org.uk to request an alternative format.