

Flexibility – Manager Guidance

Manager Guidance on Exercising the Flexibility under New Contracts

This guidance relates to hourly paid Retail colleagues who have signed up to the new 'Your Choice' contract.

Flexibility

The new flexibility clauses give Asda discretion to make changes to a colleague's job or working pattern. For example, we may change:

- their duties;
- their role;
- their job title;
- their department;
- their shift pattern;
- the days on which they work;
- the number of days on which they work;
- the length of shift; and/or
- their start or finish times.

Changes may be made on a permanent or a temporary basis.

- The clauses should not be used to reduce the number of contracted hours, move a colleague outside of their Family Department, change a colleague's place of work, or change a colleague from nights to days (or vice versa). If you need to make these changes please speak to your SMP for further guidance.

General Principles

Whilst we have discretion to make changes, we must exercise the flexibility clauses lawfully. In effect, this means that we must act reasonably and we must not discriminate against anyone on the grounds of a protected characteristic (i.e. their age, gender, race, ethnic origin, religion or belief, maternity or pregnancy, sexual orientation or disability).

Some examples of considerations that may be relevant are set out below. Please also refer to our Diversity and Inclusion Policy.

What does this mean for managers?

- If you would like to make changes of the type listed above, these clauses give you more flexibility in order to do this.
- Before going ahead, you must ensure the colleague is on the new contract - Contract Type 6. If they are not, you must check the individual colleague's contract and refer to the Contract Change Policy as a formal consultation process may be required.
- When applying the flexibility clauses, you must take the following considerations into account:
 - There must be a good business reason for the change. This reason should be explained properly to the colleague and discussed with them - colleagues are far more likely to accept changes if they can understand the reasons behind them. A good business reason might include (this is not an exhaustive list):
 - Customer demand (e.g. peak shopping times have changed)
 - Technology (e.g. more automated checkouts)
 - Contract base - department overs and shorts
 - Changes to operating methods
 - Changes to the store layout or department structure
 - Legal requirements, such as health and safety
 - The change must be reasonable. Consider what you're asking the colleague to do - is it a significant change for them? Have they had the necessary training, or could it be provided? Is it within their capabilities?

- Colleagues must be given reasonable notice of the change. What is reasonable will depend on the nature of the change and the business reason for it. If the business need is urgent then changes may be made on very short or even no notice, particularly for temporary changes. Try to give at least 4 weeks' notice of significant changes if this is practicable in the light of the business need and the colleague's personal circumstances.
- If the colleague is made worse off financially (e.g. if a colleague's hours changed and as a result they worked two fewer hours during the night window), the colleague's pay should be protected for 12 weeks from the date that that change in hours takes effect. The protection should be for 12 weeks irrespective of the colleague's length of service. This does not apply where the change is being made at the colleague's request.
- You must also take into account the colleague's personal circumstances. Our Diversity and Inclusion Policy sets out how we will behave to avoid discriminating against colleagues. Further guidance on how to avoid discrimination in this context is given below.
- Ensure colleagues are always treated with respect - any discussions must be handled sensitively and privately on a one-to-one basis. Answer any questions the colleague may have and be open to suggestions or compromises.
- Once the change is finalised:
 - HRSS stores should change the colleague's details on WalmartOne within the HRSS portal using the Core Contract Hours Change App.
 - Non-HRSS stores should follow the usual process and change the colleague's details in PeopleSoft.

What is a Family Department?

The Flexibility Clauses allow you to move colleagues between departments. Normally, such moves will be to a department in the same "family". If you need to move a colleague to a department outside the family department then you should contact your SMP for guidance.

Colleagues employed on the new Contract Type 6 will have a new generic job title but will remain scheduled to a specific department. The two main job titles will be "Service Colleague" and "Back Office Colleague". Section Leaders will have the same generic title. Here is a summary by job family that applies to Superstores and Supercentres, showing the departments that fall under each job family:

- **Job Title : Service Colleague - here are the main departments:-**

Ambient	General Merchandise/ H & L
Bakery colleague (not trained Bakers)	Grocery
Beer, Wines, Spirits	Kiosk
Checkouts (including CSD & Service Hosts)	Online Grocery
Chilled	Petrol
Counters	Porter
Frozen	Produce
George	Security
Warehouse	Process
Service	Other shop floor departments

Night Replen colleagues are normally assigned to one of these departments

- **Job Title : Back Office Colleague - here are the main departments:-**

Admin/Clerical
Cash Office
Personnel (including Store Training Co-ordinator and Community Champion)

- Job Title : Section Leader
- Other Roles – Some specialist job titles remain the same, here’s a list of the main roles:-

Academy Trainer
Management Training Co-ordinator
Trained Baker
Customer Delivery Driver
Optical
Pharmacy
Post Office

- Supermarkets / Living / Home Shopping Centres and Petrol Filling Stations - For other store formats, the job titles will be generic too and colleagues will remain scheduled to a specific department. The key job titles are:-

Colleague
Section Leader

Avoiding discrimination

Some colleagues might be less able to comply with changes than others. Imposing changes on those colleagues can be discriminatory, which would not be acceptable to Asda. Therefore, you must take full account of a colleague’s individual needs before implementing a change.

You should balance the business need for the change against the impact on the colleague, and consider whether there are other ways of meeting the business need that would have less of an impact on the colleague.

The following examples are not exhaustive, but summarise the most likely situations in which reliance on the flexibility clause might not be appropriate.

- Some colleagues have caring commitments and so are only available to work during certain periods. This is likely to be relevant to those colleagues who have agreed a fixed working pattern following a request under our flexible working policy (although their caring commitments might have changed since the request was made). It could also be relevant to other colleagues who have not had to make a request previously because they were able to work their existing roster.

When considering any changes to a colleague’s working pattern, you need to take account of these restrictions. You should check with the colleague whether there are any reasons why they cannot agree to the changes. This will be particularly important where the changes involve changes to a roster agreed through a formal flexible working request.

- Some colleagues may not be willing to work certain days of the week or dates due to religious observance. You should only use the flexibility clauses to require them to do so if there is a strong business need for them to do so and you are not able to address that need by alternative means (e.g. by asking other colleagues to work on those days).
- We are under a duty to make reasonable adjustments to prevent colleagues who have disabilities from being placed at a disadvantage by their working arrangements, and we must comply with this duty when making changes using the flexibility clauses.

Some colleagues may have medical conditions that restrict the duties that they can carry out or the hours that they can work. You might already be aware of these restrictions, because you have made adjustments to their existing duties or working pattern. However, it is possible that you will not be aware of them because they do

not affect the colleague's existing duties or working pattern but would affect the new duties or working pattern that you are proposing.

A colleague's medical condition could also affect the manner in which you engage with the colleague regarding a change. For example, a colleague suffering from an anxiety-related condition may require additional notice of any proposed changes.

You must ensure that a colleague's medical conditions are fully taken into account before a change is introduced using the flexibility clauses.

If you are in any doubt as to whether it is appropriate to use the flexibility clauses in particular circumstances then you should check with your PTM. If your PTM needs further guidance, they will contact the SMP.

What does this mean for colleagues?

- It means that Asda can make the changes listed in the opening section without going through a formal consultation process.
- Colleagues should be given the opportunity to ask any questions and to discuss any reasons why they might not be able to change.
- Colleagues should be given reasonable notice of the change, which would usually be 4 weeks for significant changes. What is reasonable will vary from case-to-case and will be determined by the manager.
- If a colleague refuses to comply with a change which Asda is entitled to make under the flexibility clauses, they could be subject to disciplinary action.

FAQs

When would the contract change policy be used?

The Contract Change Policy must be used to change the number of contracted hours.

You should check with your SMP whether it might also be the most appropriate way to deal with:

- Changing location
- Moving a colleague outside of their Family Department
- Changing a colleague from nights to days (or vice versa).

How much time would we give a colleague to move their department or change their work patterns?

A reasonable amount of time must be given. This would usually be 4 weeks but this could vary depending on the business need, the significance and duration of the change and the colleague's individual circumstances.

Will the colleague sign a PERS 131 contract change form?

No, there are no forms to sign. However, it is good practice to record your discussions with colleagues on a file note. If the situation is complex, for example if there are specific individual circumstances to consider regarding a protected characteristic, or a colleague is unhappy about the change, you must record the discussions from one-to-one meetings on a file note. As with all personal data such records must be kept confidential and held securely.

What happens if a colleague has a formal flexible working agreement already in place? Does this mean they are exempt from the flexibility clauses?

No, but any change would have to be reasonable and take into account the colleague's individual circumstances. You must give the colleague the opportunity to discuss their individual circumstances in a one-to-one meeting.

What happens if a colleague is asked to change their working patterns / Family Department and they do so, but then 3 months later you need to ask them to change again?

You should avoid continually making changes where possible. However, if there is a genuine business reason then you can make changes even if a colleague has had changes

in the recent past. You must always take into account the colleague's personal circumstances.

Do the flexibility clauses mean I can vary the number of hours a colleague can work every week?

No. Colleagues will still have specified contracted hours, days and times and family departments.

Can I use the flexibility clauses to ask a colleague to work a Sunday if they have opted out of Sunday Working?

No. Sunday working is optional and colleagues have the right to opt out of Sunday working. We can't use the clauses to ask colleagues to work a Sunday if they have opted out (refer to the Sunday Working Policy).

