

ACS Submission: Making Flexible Working the Default

ACS (the Association of Convenience Stores) represents 33,500 local shops and petrol forecourt sites including Co-op, McColls, BP and thousands of independent retailers, many of which trade under brands such as Spar, Nisa and Budgens. ACS' annual Colleague Survey collects data directly from over 7,000 shop floor colleagues and has shaped this submission. Information about ACS is available at Annex A.

Convenience retailers provide 392,000 good quality jobs at all levels of the labour market which are local, secure and provide genuine two-sided flexibility. These key benefits contribute towards low staff turnover across the sector (17%¹) and most (53%) colleagues intending to remain with their employer in five years' time². Convenience stores have long opening hours and are staffed to cover peaks and troughs in labour demand. The sector over-indexes on employing people with commitments outside the workplace which restrict the working hours they can undertake (79%) and 21% are unpaid carers³.

These dynamics underline how retailers recognise the benefits of flexible working and its necessity within the prevailing labour market. Rota management is built around accommodating colleague needs by 75% of retailers⁴. This makes the workplace more inclusive, leading to better motivation, productivity, and staff retention – and less time and resource for onboarding and training new colleagues. There is a significant and positive relationship between various flexibility on working hours and business performance. Job adverts for shop floor positions are increasingly flexible-friendly, for example specifying a minimum number of working hours rather than set working hours.

The labour market has markedly changed post-pandemic towards workers wanting to work-from-home or benefit from broader flexibility. This requires retailers to further promote the flexibility of jobs which cannot be done from home. Retailers are proactively exploring what more can be done to compete for talent: for example trialling job-shares for store manager positions to make promotion more accessible for part-time shop floor staff.

ACS' main recommendations on flexible working are as follows:

- Recognise the value of informal flexible working arrangements commonplace in the convenience sector via rota management.
- Retain a right to request flexible working over a right to have flexible working: regulations should encourage proactive conversations which balance business and colleague needs and preferences.
- Publish statutory guidance for employers on responding to requests and considering alternative arrangements.
- Review the impact of NMW regulations on flexible working, including Time Off in Lieu.

For more information on this submission, please contact Steve Dowling, ACS Public Affairs Manager, via steve.dowling@acs.org.uk

¹ ACS Local Shop Report 2021 – measured as percentage in employment for less than one year

² ACS Colleague Survey 2021

³ ACS Colleague Survey 2021

⁴ ACS National Living Wage Survey 2021

Q) Do you agree that the Right to Request Flexible Working should be available to all employees from their first day of employment?

Neither agree nor disagree. A day-one right to request flexible working would not significantly impact convenience retailers. Flexible working in a convenience store is typically arranged via informal conversations between employer and employee rather than formal requests, especially amongst small businesses operating in the sector.

The right should remain a *right to request* rather than *right to have* as flexibility is not always possible and can require compromise. The legal framework should encourage conversations around flexible working which best balance work requirements and personal needs. It is reasonable for employees to instigate these conversations and for employers to be able to reject requests based on business impact. 66% of convenience store colleagues state their working hours fit in well with their family and social commitments⁵.

A day-one right may nudge job adverts to be more explicit about flexibility on working hours. Candidates knowing they can discuss flexible working during the recruitment process could also boost applications, while external events requiring flexibility to deal with do not discriminate between employees with differing lengths of service. A day-one right would support the government's objective to make flexible-friendly working cultures the default. However, greater awareness of potential flexible working arrangements in other industries could make competing for labour more difficult for retailers that already promote their flexible working credentials.

Q) Do you agree that employers should be required to show that they have considered alternative working arrangements when rejecting a statutory request for flexible working?

Neither agree nor disagree. However, it is best practice for employers to demonstrate that any request has been given full and genuine consideration. Colleagues are less likely to use their statutory right to appeal a refusal of a flexible working request if alternative arrangements have been clearly considered and/or agreed. The risk of indirect discrimination claims and their reputational impact is significant and a clear deterrent to not considering alternatives. Updated Acas guidance should set out how employers can practically consider alternatives and not default to rejecting requests. This could include; making flexible working arrangements temporary, accepting reduced hours but on a different shift pattern, or accepting changes on some working days only.

Q) Would introducing a requirement on employers to set out a single alternative flexible working arrangement and the business ground for rejecting it place burdens on employers when refusing requests?

No. It is reasonable for retailers to be clear in responses about why a particular flexible working arrangement has been rejected. This should form categorisation into the eight reasons and a little further explanation for the employee.

Writing down specifically why a request must be rejected would also focus on the root cause of the rejection and potentially help towards an amenable solution. It is also a simple, clear way of demonstrating full consideration if any tribunal process were to arise in extreme circumstances.

⁵ ACS Colleague Survey 2021

Q) Do you think that the current statutory framework needs to change in relation to how often an employee can submit a request to work flexibly?

We are not opposed to employees being able to submit flexible working requests more often. This would support effective flexible working where needed at short notice due to a change in circumstances (e.g. parents returning to work, newly disabled colleague).

Q) If the Right to Request flexible working were to be amended to allow multiple requests, how many requests should an employee be allowed to make per year?

Legislation, or statutory guidance, should address how retailers could deal with identical requests submitted within a short space of time.

Q) What would encourage employees to make time-limited requests to work flexibly? Please provide examples.

Time-limited flexible working requests are informally common practice in convenience stores via rota management processes. This is done via conversations between employer and employee and typically occurs when a need arises to care for an elderly relative, recover or treat a longer-term health condition, or as childcare arrangements change.

Encouraging positive working relationships and business cultures is key to achieving the benefits of flexible working for retailers, for colleagues and the wider economy. Informal flexible working arrangements should not be effectively discouraged by changes to the legal framework. Where informal arrangements do not work well, it is possible a formal request would then be submitted.

Q) Please share your suggestions for the issues that the call for evidence on ad hoc and informal flexible working might consider

The call for evidence must consider how ad-hoc and informal flexible working could impact enforcement of the NMW regulations, especially considering the commitment to introduce a single enforcement body for employment rights. The current regulations risk non-compliance and 'naming and shaming' for retailers due to Time Off in Lieu (TOIL) arrangements not being legally recognised. This is a key barrier to enabling greater flexibility for lower-paid staff looking to change their working hours.

The call for evidence should focus on supporting positive workplace cultures to enable informal flexible working arrangements and improved workplace wellbeing. The ACS Wellbeing Guide provides practical support for retailers to improve staff retention and customer service via a healthy, engaged workforce⁶. Embedding practical approaches to wellbeing within people management is key to bringing about positive workplace cultures which support flexible working.

Lastly, implementing amendments to the Flexible Working Regulations are unlikely to take effect until April 2023. That timetable could align with the labour market being some way further towards the necessary culture change to embed flexible working, especially if current labour market conditions persist with greater competition between employers for staff.

For more information on this submission, please contact Steve Dowling, ACS Public Affairs Manager, via steve.dowling@acs.org.uk

⁶ <https://www.acs.org.uk/advice/wellbeing>

Annex A

ABOUT ACS

The Association of Convenience Stores lobbies on behalf of over 47,000 convenience stores across mainland UK on public policy issues that affect their businesses. ACS' membership is comprised of a diverse group of retailers, from small independent family businesses running a single store to large multiple convenience retailers running thousands of stores.

Convenience stores trade in a wide variety of locations, meeting the needs of customers from all backgrounds. These locations range from city centres and high streets, suburban areas such as estates and secondary parades, rural villages and isolated areas, as well as on petrol forecourts and at travel points such as airports and train stations.



WHO WE REPRESENT

INDEPENDENT RETAILERS



ACS represents almost 19,000 independent retailers, polling them quarterly to hear their views and experiences which are used to feed in to Government policy discussions.

These stores are not affiliated to any group, and are often family businesses with low staff and property costs. Independent forecourt operators are included in this category.

SYMBOL GROUPS AND FRANCHISES



ACS represents over 14,000 retailers affiliated with symbol groups. Symbol groups like SPAR, Nisa, Costcutter, Londis, Premier and others provide independent retailers with stock agreements, wholesale deliveries, logistical support and marketing benefits.

Symbol group forecourt operators and franchise providers like One Stop are also included in this category.

MULTIPLE AND CO-OPERATIVE BUSINESSES



ACS represents over 13,000 stores that are owned by multiple and co-operative retailers. These businesses include the Co-Operative, regional co-operative societies, McColls and others.

Unlike symbol group stores, these stores are owned and run centrally by the business. Forecourt multiples and commission operated stores are included in this category.

THE CONVENIENCE SECTOR



In 2021, the total value of sales in the convenience sector was £43.2bn.

The average spend in a typical convenience store transaction is £10.82.



There are 47,079 convenience stores in mainland UK. 71% of stores are operated by independent retailers, either unaffiliated or as part of a symbol group.



The convenience sector provides flexible employment for around 392,000 people.

9% of independent/symbol stores employ family members only.



10% of shop owners work more than 70 hours per week, while 49% take no holiday throughout the year.

72% of business owners are first time investors in the sector.



Convenience stores and Post Offices poll as the two services that have the most positive impact on their local area according to consumers and local councillors.

80% of independent/symbol retailers have engaged in some form of community activity over the last year.



Between August 2020 and May 2021, the convenience sector invested over £534m in stores.

The most popular form of investment in stores is refrigeration.

OUR RESEARCH

ACS polls the views and experiences of the convenience sector regularly to provide up-to-date, robust information on the pressures being faced by retailers of all sizes and ownership types. Our research includes the following regular surveys:

ACS VOICE OF LOCAL SHOPS SURVEY

Regular quarterly survey of over 1,200 retailers, split evenly between independent retailers, symbol group retailers and forecourt retailers. The survey consists of tracker questions and a number of questions that differ each time to help inform ACS' policy work.

ACS INVESTMENT TRACKER

Regular quarterly survey of over 1,200 independent and symbol retailers which is combined with responses from multiple businesses representing over 3,000 stores.

ACS LOCAL SHOP REPORT

Annual survey of around 2,400 independent, symbol and forecourt retailers combined with responses from multiple businesses representing 6,700 stores. The Local Shop Report also draws on data from Lumina Intelligence, IGD, Nielsen and William Reed.

BESPOKE POLLING ON POLICY ISSUES

ACS conducts bespoke polling of its members on a range of policy issues, from crime and responsible retailing to low pay and taxation. This polling is conducted with retailers from all areas of the convenience sector.

For more information and data sources, visit www.acs.org.uk