

Statutory Right to Request Flexible Working



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1. Introduction

This Policy details the arrangements for employees who meet the qualification criteria, to apply the statutory right to request to work flexibly.

The arrangements apply to all employees directly employed by the Council and are recommended to schools with delegated authority for staffing matters, as “Best Practice”. These do not apply to Elevate employees.

2. General

The statutory right to request flexible working applies to employees with a contract of employment and who must:

- be an employee, not an agency worker or member of the armed forces
- have worked for their employer for 26 weeks continuously at the date that the application is made
- not have made another application to work flexibly under the right during the past 12 months.

Note: The statutory right is to *request* flexible working.

The manager must consider the request, including any appeal, within 3 months of the receipt of the original application unless it is agreed with the employee to extend this period. The manager may reject the request for one of the following reasons:

- the burden of additional costs,
- an inability to reorganise work amongst existing staff
- an inability to recruit additional staff
- a detrimental impact on quality
- a detrimental impact on performance
- detrimental effect on ability to meet customer demand
- insufficient work for the periods the employee proposes to work
- a planned structural change to your business

3. Roles and Responsibilities

Managers and employees are required to comply with arrangements detailed in this Policy. These are intended to ensure that managers and employees consider the operational needs of the service and the contractual implications when considering a statutory request to work flexibly.

Employee's responsibility

Employees are required to:

- Submit a written application to their Group Manager (or line manager if the applicant is at Group Manager level or above) at least 4 weeks in advance of the date they would like the flexible working arrangement to start, using the form provided at Appendix A

- Discuss the proposal and the implications for the operational needs of the service and work colleagues with their line manager before submitting an application
- Investigate the potential implications of the proposed flexible working arrangements on their contractual terms and conditions. (Employees who reduce their working week have no right to return to their former hours at a later date).
- Ensure that they do not enter into any financial or other commitments which are dependent on the approval of a request to work flexibly prior to a decision being made. The Council will not be liable for any costs incurred by employees who make arrangements prior to a request for flexible working being granted
- Think carefully about their desired work pattern when making an initial application and consider whether this complies with local arrangements around cover and leave etc. This especially applies when requesting a change that will involve a reduction of their working days e.g. from 5 to 4 days each week
- Be flexible and prepared to compromise to try and find a solution that is acceptable to the individual and the Council

Note: It is important that employees consider how the proposed working pattern may work in their team only. Each application will be considered sympathetically on its merits and the operational needs of the service etc only; managers are not required to follow arrangements agreed previously and/or worked in other teams.

Manager's responsibility

Managers are required to:

- Discuss the implications of a proposed flexible working arrangements with the employee in relation to their terms and conditions and the impact on the operational needs of the service and work colleagues; this should include:
 - The necessary cover arrangements to operate and maintain the service
 - Any restrictions already in place on flexi-time/flexible working
 - How any requests to reduce hours or the days to be worked may impact on work colleagues e.g. on working work flexi-time or taking leave
 - The contractual arrangements including continuous service, pensions and leave
- Consider the operational feasibility of approving the request and how this can be accommodated
- Meet with the employee as soon as possible but within 28 days of receipt of the employee's application and notify them in writing of their decision and the reason(s) for approving / not approving the request, within 10 working days of the meeting; the employee may be accompanied by a trade union representative or work colleague.
- Consult Human Resources as to the contractual arrangements that will apply when considering any requests and before an application is agreed
- Be flexible and prepared to compromise to try and find a solution that is acceptable to the individual and the Council

4. Conditions

Flexible working

Eligible employees will be able to request:

- A change to the hours they work.
- A change to the times they work e.g. later start/early leaving
- A change to the times when they are required to work.
- To work from home, in accordance with the “Home-working Policy”

This covers a variety of working patterns including flexi-time, job-sharing, shift work, term-time working, “compressed” or “staggered hours”, home-working and “flexible retirement” etc. Each application will be considered on its merits taking into account the operational needs of the service. Employees and managers may need to be prepared to compromise to try and find a solution acceptable to the individual and the Council.

Any changes to or reduction in hours will involve a change to the employee’s contract.

Applications for flexible working

Only one application per year may be made under this right. Employees should apply to their Group Manager (or line manager if the applicant is at Group Manager level or above) using the Application Form at Appendix A; the application must:

- be dated and made in writing
- state that it is being made under the statutory right to apply for flexible working
- set out the employee’s proposals and explain what effect the employee thinks this will have on the business and how this could be dealt with (e.g. if they propose to reduce their working week or the days they will be at work)
- specify a start date for the proposed change the employer reasonable time to consider the proposal and implement this. This may take 12-14 weeks
- say if and when they have made a previous application

The Group Manager (or their line manager) will meet the employee to explore the desired work pattern and to discuss how it may be best accommodated within the service. The employee may be accompanied by a work colleague or trade union representative.

Trial periods

Where agreed, the proposed work pattern will be subject to a trial period up to 3 months before any changes are made to the employee’s contract. This is to see how the arrangements work in practice and any impact on the service and work colleagues.

The Group Manager (or their line manager) will confirm the arrangements for the trial period in writing and notify Human Resources before the start date so any payroll changes can be processed in time to avoid any overpayments/underpayments of salary.

Note: If it is clear that the arrangements are not working and/or need adjusting this needs to be addressed promptly and not left to the end of trial period.

Contractual changes

Where the Group Manager (or their line manager) agree changes to the working arrangements these will be confirmed in writing and subject to annual review.

Any changes to or reduction in hours will require a change to the employee's contract of employment. Once the contract has changed neither side has the right to change it back again, (however all contracts may be varied subject to agreed contractual consultation).

5. Application process

Employees who are contemplating applying to work flexibly should discuss this with their manager in the first instance, including:

- Their reason(s) for wishing to work flexibly
- The proposed flexible working arrangements, including the start date
- How their request for think the request to work flexibly can be accommodated
- Where this involves a reduction in hours, the implications relating to the employee's terms and conditions (including pensions and leave)

It is the employee's responsibility to fully investigate this for themselves before applying.

If it is agreed that the request to work flexibly may be accommodated, the employee should then submit a formal application to their Group Manager (or line manager if the applicant is at Group Manager level or above) using the form at Appendix A.

The Group Manager (or their line manager) will arrange to meet with the employee as soon as possible but within 28 days of receipt of the application to discuss the request and how it may be accommodated, or consider alternative working patterns if there are any issues. They will then discuss the application with Human Resources and notify the employee in writing of their decision within 10 days of the meeting and:

- i) If the application is approved, confirm the start date and notify Human Resources to issue a revised contract of employment where appropriate
- ii) If the application is not approved, explain the business reason(s) for the decision and the employee's right of appeal.

Note: All requests, including the appeal, must be considered and decided on within 3 months of the receipt of the original application, unless it has been agreed with the employee to extend this period.

6. Appeals

Where the application is not approved, the employee will have a right to appeal to their Divisional Director, or if they did not agree to the application, another Divisional or Corporate Director whose decision is final.

Employees should write to the Head of Human Resources within 10 working days of the notification of the manager's decision at 5 above, setting out the grounds for the appeal, (using the form provided at Appendix A).

The employee will be formally notified in writing of the arrangements for the Appeal, which should be held within 28 working days. The employee may be accompanied at the appeal meeting by a trade union representative or work colleague.

This is the final stage; there is no further right of appeal.

7. Monitoring

Applications for flexible working will be monitored and reviewed annually to ensure that the arrangements are applied fairly and consistently across the Council.

In order to ensure that monitoring takes place, managers must complete Part 2 of the "Application to apply statutory right to request flexible working" and forward a copy of the completed form, and any appeal outcome letter, to your Employee Relations Adviser so that this can be recorded.

Human Resources will automatically update the arrangements to comply with any changes to legislation and / or ACAS guidance and notify employees of the amendments.

Appendix A.

Application to apply statutory right to request flexible working

Part 1: To be completed by the employee

1. Personal details

Name: Employee Number:

Service: Department:

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided under section 80F of the Employment Rights Act 1996. I confirm I meet each of the eligibility criteria as follows:

Please tick the relevant boxes

- ii) [] I have worked continuously as an employee for the Council for the last 26 weeks.
- iii) [] I have not made a request to work flexibly under this right during the past 12 months.

Please enter the date of any previous request to work flexibly under this right:

If you are unable to tick all both boxes you do not qualify to make a request to work flexibly under the statutory procedure. Your manager may still consider your application if:

- i) you have not made a informal/formal requests during the past 12 months; or
- ii) requested as a reasonable adjustment for disabled employees.

2. Working Patterns

It will help your manager when considering your request if you provide as much information as you can about your desired working pattern.

2a. Describe your current working pattern (days/hours/times worked):

2b. Describe the working pattern (days/hours/times) you want to work in future:

2c. Please explain whether you are looking for a permanent or temporary change to your working pattern?

2d. When would you like the new working pattern to start?
(It may take up to 14 weeks to consider a request before it can be implemented)

Note: Where agreed, the proposed work pattern will normally be subject to a trial period. Any changes to hours will be subject to annual reviews.

2e. How do you think the proposed changes will affect work and colleagues?
(For example, if asking to go from full to part-time working this may impact on the cover at peak periods and at the beginning/end of the day or start/end of the week or other times where there are less staff)

2f. How can this impact on work and colleagues can be dealt with?

Signed: _____ **Print name:** _____

Date: _____

Please forward the completed Form to your Group Manager (or line manager if you are at Group Manager level or above)

Part 2: To be completed by the Group Manager (or their line manager if the applicant is at Group Manager level or above):

Decision (to approve/not approve application for flexible working):

Reason(s);

Any conditions attached to the flexible working e.g. trial period (where appropriate):

Signed: _____ **Print Name:** _____

Date: _____

Please notify the employee of the decision and return the completed form to the HR Service Centre to process the request where approved and go on their Personnel File and forward a copy to HR Employee Relations Team, for monitoring purposes.

Part 3: To be completed by the employee:

Please detail the reason(s) for your appeal (continue overleaf if necessary).

Signed: _____ **Print Name:** _____

Date: _____

Please return the completed form (after taking a copy for your records) to the Head of Human Resources within 10 working days of the manager's decision at Part 2.

There is no other right of appeal through this or the Grievance Resolution Procedure.

Office Use Only

A) To be completed by Human Resources

Appeal Received: **Acknowledged:**

Date of Appeal:

Outcome:

London Borough of Barking and Dagenham
Call direct on 020 8215 3000

Out of hours emergencies only
Phone: 020 8594 8356
Fax: 020 8227 3470
Email: 3000direct@lbbd.gov.uk
Web: www.barking-dagenham.gov.uk

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