

Flexible Working – ‘The Right To Ask’ Policy & Procedure

1. Background – Why Flexible Working

- 1.1 Flexible working opportunities can benefit everyone in the workplace and at home. Flexible working opportunities enable the Council to retain skilled staff, reduce recruitment costs, raise staff morale, decrease absenteeism and react to changing conditions. Management should be prepared to consider any employee’s requests to work an alternative working pattern. Anyone thinking about changing their work pattern should speak to their manager and explore what opportunities are available.
- 1.2 Employees and managers should liaise with their Human Resources Teams for clarity and advice.
- 1.3 Alongside this there is also a statutory right to request flexible working for employees who are parents of children under the age of six or disabled children under eighteen.
- 1.4 The council is committed to supporting working parents and has a statutory duty to give serious consideration to applications from eligible employees.

2. Eligibility

- 2.1 In order to make a request using the existing legislation, the employee must:
 - Have a child under six, or under 18 in the case of a disabled child
 - Have worked for the Council continuously for at least 26 weeks at the date the application is made
 - Make the application no later than two weeks before the child’s sixth birthday or 18th birthday in the case of a disabled child
 - Be either the mother, father, adopter, guardian or foster parent of the child or married to or the partner of one of these persons
 - Have or expect to have responsibility for the child’s upbringing
 - Be making the application to enable them to care for the child
 - Not have made another application to work flexibly under the right during the past 12 months.
- 2.2 An employee who does not meet the criteria will not be able to apply for flexible working under the statutory right. However, the Council is committed to its employees maintaining a worklife balance, and extends the right to ask, to all employees with caring responsibilities.

3. Scope of the request

- 3.1 Eligible employees will be able to request:
- A change to the hours they work
 - A change to the times when they are required to work
 - To work from home, whether for all or part of the week.
- 3.2 Various working patterns are covered, such as annualised hours, compressed hours, flexitime, homeworking, job-sharing, self-rostering, shift working, staggered hours and term-time working. The Human Resources Teams will be able to assist and advise on these patterns.
- 3.3 Where an employee has requested to work from home, guidance should be sought from the Health and Safety Team. Consideration will also be given to risk assessments and insurance issues.

4. The procedure – the employee

- 4.1 The initial onus will be on the employee to make a considered application in writing. The application must:
- Where applicable, state that the application is being made pursuant to the statutory right to request flexible working.
 - If applying under the statutory rights confirm that the employee has responsibility for the upbringing of the child and clarify the capacity in which the application is made, ie mother, father, adopter, married to or partner of the mother, etc.
 - If applying as a carer, state the caring responsibilities that the employee has.
 - Explain the likely effect the proposed change would have on the employer and how this can be dealt with.
 - Set out the flexible working pattern being applied for.
 - State the date on which the proposed change is to take effect.
 - Outline whether and when a previous application was made.
 - Be signed and dated.
- 4.2 The individual will be able to make only one application a year. Each year runs from the date of the application.
- 4.3 An accepted application will mean a permanent change to the employee's terms and conditions of employment, unless otherwise agreed. The employee should therefore give careful consideration to which working pattern will help them best care for their child. As this is a permanent change the manager/ employee should not expect that the previous working pattern would resume at any time, except where there is mutual agreement to revert at an agreed time.
- 4.4 The employee should be fully aware of any financial implications of any change, e.g. if there is a reduced number of hours worked there is an actual reduction in pay, and pension contributions.

5. The procedure – the manager

- 5.1 Within 28 days of receiving the application, the manager will arrange to meet with the employee. During this meeting they should both discuss the desired work pattern in depth and consider how it might be accommodated. They should also consider alternative working patterns should there be problems in the desired work pattern outlined by the employee. (A meeting may not be necessary where the manager agrees to the employee's request).
- 5.2 The employee has the right to bring a union representative or work colleague to the meeting.
- 5.3 Within 14 days after the date of the meeting the manager will write to the employee to:
- Agree to a new work pattern and a start date; or
 - Provide a clear business reason(s) as to why the application cannot be accepted in this circumstance and setting out the appeal procedure; or
 - To advise of further action before making the final decision.
- 5.4 The business grounds for refusing an employee's application must fall within one or more of the following categories:
- The burden of additional costs; (if there are further costs to safely agree to homeworking, advice should be sought from the Human Resources Team)
 - Detrimental effect on the ability to meet customer demand;
 - Inability to re-organise work among existing staff;
 - Inability to recruit additional staff;
 - Detrimental impact on quality;
 - Detrimental impact on performance;
 - Insufficiency of work during the periods the employee proposes to work;
 - Planned structural changes;
 - Such other grounds as the Secretary of State may specify by regulation.

6. Right to appeal

- 6.1 The employee has the right to appeal the decision within 14 days of receiving the written refusal.
- 6.2 The appeal process is designed to be in keeping with the overall aim to encourage both parties to reach a satisfactory outcome at the workplace.
- 6.3 An employee who wishes to appeal in respect of any of the following should do so in writing to the Executive Director, or Assistant Chief Executive, for the relevant service.

- 6.4 The appeal may be:
- Against the decision taken by their manager;
 - That the time taken to respond is outside the statutory procedure;
 - That the procedure was not followed.
- 6.5 The Executive Director, or Assistant Chief Executive, will decide whether to hear the appeal, or whether to nominate another Senior Manager if appropriate. The Hearing Officer must arrange an appeal meeting to take place within 14 days after receiving notice of the appeal
- 6.6 Normally a manager at a higher level than the manager who took the initial decision will hear the appeal. S/he will be accompanied by a Human Resources Adviser not previously involved in the original decision.
- 6.7 The employee has the right to be accompanied by their trade union representative or a work colleague.
- 6.8 In a minority of cases some employees who qualify for statutory rights will be able to pursue their request with third party involvement. This may be by referring their request to ACAS, to an employment tribunal, or by using another form of dispute resolution.

7. Monitoring

- 7.1 Each Human Resources Manager will monitor this policy and procedure and Corporate Human Resources will provide a corporate overview.

8. Reference

- 8.1 The Employment Act 2002
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