

Flexible Working Policy

Version 05

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1 Policy Statement

The Flexible Working legislation gives all employees the opportunity to apply for a temporary or permanent change of working pattern, at any stage of their career, and regardless of their personal reasons for making the request.

Whilst there is no automatic right to work flexibly, this policy provides a fair and consistent basis for making applications so that requests should not be refused unless they have a clear, detrimental impact on the business in accordance with the Employment Rights Act 1996, section 80G.

The aim of the policy is to help employees achieve a good balance between their work and their lives outside work, and to enable the County Council to retain skilled employees.

Please note that, with effect from 1 July 2016, the homeworking policy (HR21) is no longer available and employees will not be able to make a formal request to be permanently based from home with financial support.

2 Who the Policy Covers

This policy applies to all employees, from the first day of their employment. This policy does not apply to agency workers.

This policy is commended for adoption by governing bodies, for application to all employees employed in schools.

3 Policy Provisions

There are six main work patterns to choose from, but individuals may also combine different options and suggest their own alternatives. By definition, term-time working and job sharing are always coupled with reduced hours.

- **Reduced hours** – working less than a full-time schedule with corresponding adjustment to pay and benefits.
- **Term-time working** – working annual hours during school or college term times only.
- **Job sharing** – two individuals sharing the duties of a full-time position with a corresponding adjustment to pay and benefits. Job share partners must carry comparable responsibilities if the grade of each person is to be maintained.
- **Variable hours/flexitime** – selecting different start and finish times, within agreed limits, from the standard ones in a service area.

- **Compressed hours** – working a full-time week in fewer than five days. Employees working this type of arrangement must ensure their health and safety is not compromised by working long hours without adequate breaks, or by working alone in potentially dangerous situations.
- **Office-based homeworking** – where the permanent workplace is a County Council office, although the employee may work a fixed part of the week from home. No annual allowance will be made to cover costs of a home being used as an occasional workplace.

4 The Contractual Options

In most cases flexible working arrangements are agreed at the outset as permanent changes.

In some cases, however, the individual may want to test an arrangement for a trial period before making a long-term commitment, or a manager may suggest a trial period where the likely business impacts of a proposed working pattern are unclear.

There may be occasions where an individual only needs flexibility for a defined period, in which case a temporary fixed term arrangement may be put in place. There are therefore three contractual options:

- **Permanent** change to terms and conditions of employment.
- **Fixed period** change in working pattern of between one and six months, after which individuals can either return to their previous hours/pattern or apply for a permanent flexible working pattern.
- **Trial** of a new working pattern of between one and three months, after which the working pattern will either end or continue as a permanent contractual change.

5 Making An Application

The employee must make a dated request in writing to their manager using the application form on the flexible working intranet page. Two applications can be made in a 12-month period. The application must state:

- That it is a formal application to apply for flexible working; a formal application to change their work pattern/location;
- The change applied for;
- The date on which they want the change to take place;
- Whether they have made a previous application and, if so, when.

Having received the employee's completed application form, the manager will ensure that the employee receives an acknowledgement in writing, and then will have 28 calendar days from receipt of the application form to consider the employee's request.

In considering the request, the manager should meet with the employee to discuss the application in more detail. If the employee cannot attend the meeting, they should contact their manager immediately and give reasons. The meeting will be rearranged. If the employee fails to attend a rearranged meeting without good cause the manager will treat the employee's application as having been withdrawn.

The manager will ensure that the employee is written to and either:

- (a) inform the employee that their request has been approved and state the contract variation agreed to and the date from which it will take effect. At this point the process is complete; or
- (b) arrange a meeting with the employee to discuss their request.

Where an employee wishes to withdraw a request after it has been submitted, they may do so, in writing.

6 The Decision

The employee must be told of the decision in writing within 14 calendar days of the meeting.

If a request is accepted on a permanent basis the manager should ensure any necessary changes are made to the employee's payroll record, including the issue of a new statement of employment particulars.

If a trial period is necessary to assess whether the proposed new arrangements would work or not, the employee needs to be informed of the decision. The decision must not only state the period of the trial but also why the request has not been accepted at this stage. If the employee refuses to accept a trial period they still have a right of appeal.

Sometimes, it may be necessary to turn down or postpone a request. In such circumstances, if the original request can't be accepted in full, then both the manager and employee should discuss if it may be possible to secure some of the benefits that the original request sought. They should discuss, for example, any potential modifications to the original request, or any alternative flexible working options, that may be available and suitable for both sides. As outlined above, it may be helpful to discuss whether a trial period may be appropriate to assess the feasibility of an arrangement.

If the employee's request is declined, the letter must give reasons for the refusal, set out the appeal process and give them a timescale after which a new request can be considered.

A request to work flexibly should not be declined unless there is a detrimental business impact and after all options of finding a mutually agreed solution have been explored. This includes investigating all feasible options other than the working pattern originally proposed. A decline can only be justified if one or more of the following detrimental business impacts are identified:

- Additional costs which are excessive
- Detrimental effect on ability to meet customer demand
- Inability to reorganise work amongst existing staff
- Inability to recruit additional staff
- Detrimental impact on quality of work produced or individual's normal performance standards
- Planned structural changes that have already been announced
- A request for homeworking that will result in excessive additional cost or infringes on other regulatory obligations, eg data protection.

7 Extension of Time

The application process should take no longer than 2 months from the date of application.

There may be occasions when it is necessary to seek to extend the time limit for any part of the process. Managers must obtain the agreement of the employee to any such extension by completing Form F - Extension of Time Limit.

8 Other Considerations

- The employee must be aware that any change in contract ie reduction in hours, reallocation of duties, etc as a result of a successful application could impact upon pension as well as other benefits as applicable. The employee should contact the Pensions team for employees in the Local Government Scheme, or the Teacher Pensions team for employees in the Teachers Pension Scheme for further information and advice.
- The manager, in conjunction with the individual, should discuss the management of health and safety when agreeing flexible/homeworking arrangements and document how any hazards identified are to be controlled within a risk assessment.

If, having spoken to their manager, an employee disagrees with their flexible working application being declined, they should firstly discuss their concerns with their manager. There may be other options that could be considered that would meet both the employee's and the business' needs.

If the employee feels they have not been treated fairly, they can appeal to the next level of management in their team, by completing a Flexible Working Appeal Form, which can be downloaded from the Flexible Working intranet page.

Once completed, and within 7 calendar days after being notified in writing of the decline of the request, the employee should send the form to their manager, who will then forward it to the person hearing the appeal.

A meeting to discuss the appeal must be held within 14 calendar days of the form being received.

Individuals may arrange to be accompanied to the appeal meeting by a trade union representative or work colleague. The individual's chosen companion may confer and contribute to the meeting, but may not answer questions on the individual's behalf.

The outcome of the appeal must be notified to the individual in writing within 14 calendar days of the meeting taking place. This decision is final.

10 Roles and Responsibilities

10.1 Employee's responsibilities

- To complete their application form as comprehensively and thoroughly as possible, anticipating any potential problems and suggesting solutions where possible. To their manager
- To approach the discussions about their application in a creative and flexible way, seeking to achieve an outcome that is a win-win for themselves and the County Council.
- To be willing to explore all possible alternatives if the first preference working pattern is not feasible.
- To respond constructively to manager requests to discuss changing a current flexible working pattern which is no longer working for the business.
- To contact their Pensions team for further information and advice as applicable.

10.2 Manager's responsibilities

- To create an environment where employees can access the flexible working policy when they want to, are comfortable making requests, and know that any application will receive fair consideration.
- To receive applications for flexible working positively.
- To take each application on its own merits and keep an open mind about work patterns that could operate in their team.
- To approach the discussions about their application in a creative and flexible way, seeking to achieve an outcome that is a win-win for the individual and the County Council.
- To objectively review all relevant information in deciding on an application, exploring all options, and acting in accordance with the timescales set out in the policy.
- To ensure that any declines are in line with the policy, explained to the employee and fully documented.
- To receive appeals against flexible working request declines constructively, acting in accordance with the timescales set out in the policy, taking a fresh look at the application from an independent perspective. To focus on finding a positive outcome for both sides, where possible.
- To handle constructively and sensitively the need to discuss with an employee a current flexible working pattern which is no longer working for the business, striving to reach a mutually acceptable solution.

11 Standard Documents

Form A - Flexible Working Application

Form B - Flexible Working Application Outcome (including Trial Periods)

Form C - Flexible Working Application Rejection

Form D - Flexible Working Appeal

Form E - Flexible Working Appeal Reply (including Trial Periods) Form F -

Flexible Working Extension of Time Limit

12 Cross References

1. Flexitime policy
2. Flexible retirement policy

13 Document and Version Control

Version:	0.5		
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Author(s):	People Services		
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Version	Author (s)	Reason for Change	Date
02	Strategic HR	Initial Release	July 2004
03	Tracey Beadmore, Strategic HR	To reflect changes in practices/government guidance To remove the formal homeworking policy (applied to core council employees only)	July 2016
04	Rachel Kirstenfeldt, People Services	To reflect the decision to allow employees to make a request from Day 1 of employment.	3 April 2023
05	Rachel Kirstenfeldt, People Services	Reflect changes on number of applications in 12 months, removal of requirement to outline mitigation of impact and reduction in employer response time.	6 April 2024