



## **EMPLOYEES' GUIDE**

### **MAKING A REQUEST FOR FLEXIBLE WORKING**

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#### **1. Introduction**

Ealing Council is committed to facilitating, wherever possible, flexible working practices for staff without compromising the delivery of high quality and responsive services to the local community.

The Council recognises that for individuals, the opportunity to work flexibly can enable them to achieve a better work-life balance. Working flexibly can provide employees with a greater sense of responsibility, ownership and control of their working life.

The Council also recognises that it makes good business sense to provide flexible working opportunities for their staff because such arrangements can enable the Council to:

- Attract and retain skilled staff and reduce recruitment costs
- Raise staff morale and increase loyalty and commitment
- Increase attendance
- React to changing market conditions more effectively

#### **2. Who can apply for flexible working**

Parents of children aged under 17 (or 18 where disabled) and carers of certain adults who have 26 weeks continuous service with the Council have a statutory (legal) right to request flexible working and the Council has a duty to consider their requests seriously.

The Council has extended the right to request flexible working to all employees of the Council who have 26 weeks continuous service.

Employees who do not have 26 weeks continuous service can still make a flexible working request but such requests will not be considered under the Council's local procedure. Such requests will be considered by the employee's designated manager and will be given serious consideration. Where it is impractical to agree to flexible working because of the impact on the service provided, then the manager will clearly explain the reasons for refusal to the employee.

Where the Council cannot accommodate all requests, priority will be given to those who have a statutory right to request flexible working.

### **3. Does the Council have a procedure for considering requests**

The Council has an agreed procedure to consider requests for flexible working. See part 3, section 10 (paragraph 10.9) of the Local Terms and Conditions of Service (working time) for eligibility and details of the procedure.

An employees' right to apply for flexible working is not a right for the employees' flexible working request to be agreed.

There are a number of flexible working options contained within the Council's Local Terms and Conditions of Service (see section 6). When considering a flexible working request, the manager will have regard to any condition of service that is relevant to the particular request.

Should the Council approve an application for flexible working the variation in contractual terms may be permanent or for a specified time period only. Should a permanent change be requested and agreed the employee will have no automatic right to change back to their previous pattern of work.

### **4. This guidance**

This guidance includes:

- The rights and responsibilities of the employee and the manager (on behalf of the Council)
- Flexible working options
- Making an application for flexible working
- Procedural guidance including the right of appeal
- Flexible working application form

### **5. Rights and responsibilities**

#### Employees' rights

- To apply to work flexibly
- To have their application considered properly in accordance with the local procedure and refused only where there is a clear organisational reason
- To have a trade union representative or work colleague present when meeting the manager to discuss the application
- Where the employee's application is refused, to have a written explanation explaining why
- To appeal against the Council's decision to refuse the application

#### Employees' responsibilities

- To provide a carefully thought-out application
- To ensure the application is valid by checking that they are eligible and that all the necessary information has been provided
- To arrive at meetings on time and to be prepared to discuss the application in an open and constructive manner
- Where necessary, to be prepared to be flexible to reach an agreement with their line manager

### Managers' rights (the Council)

- To reject an application when the desired working pattern cannot be accommodated within the needs of the service
- To seek the employee's agreement to extend timescales where it is appropriate
- To consider an application withdrawn in certain circumstances

### Managers' responsibilities (the Council)

- To consider requests properly in accordance with the local procedure
- To adhere to the time limits contained in the procedure
- To provide the employee with appropriate support and information during the course of the application
- To only decline a request where there is a recognised organisational ground and to explain to the employee in writing why it applies
- To ensure that any variation with the procedure is agreed in advance with the employee and recorded in writing

## **6. Flexible working options**

Eligible employees can request to:

- Change the hours they work
- Change the times when they are required to work or
- Work from home

Applications for a change in an employees working pattern will not always require a significant alteration, for example, a parent may simply wish to start work half an hour later to take their child to school and make up the time later in the day. Alternatively, the request may involve a more significant change to their hours in order to balance, for example, their work and childcare requirements.

Flexible working incorporates a wide variety of working practices in contrast to the normal working pattern or the other traditional variations such as part-time or shift working. Options (or possible combination of options) which can be considered are:

Type of flexible working	Description	Local condition of service <sup>1</sup> Y/N	Change to
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<sup>1</sup> Some of the Council's Local Terms and Conditions of Service do not apply to some chief officer posts (see relevant chief officer appendices to the contract of employment)

			<b>contract required<sup>2</sup></b>  <b>Y/N</b>
<b>Part-time working</b>	There is no set pattern to part-time working. It may involve a later start and earlier finish time than a full-time position, working mornings or afternoons only, fewer days in the week or any other arrangement of working time whereby the employee is contracted to work less than normal basic full time hours The employee will be paid for the hours they work pro rata, with the exception of training and car allowances	<b>Y</b> (part 2, paragraph 2.7 of the local conditions of service)	<b>Y</b>
<b>Flexi-time</b>	Employees are required to work within a “core time period”. Hours worked outside the core time period are often worked flexibly.	<b>Y</b> (paragraph 10.2 in parts 2 and 3 of the local conditions of service.)	<b>Y</b>
<b>Job-sharing</b>	Typically, two employees share the work normally done by one employee	<b>Y</b> (paragraph 10.4 in parts 2 and 3 of the local conditions of service). Job sharing can apply to posts at all levels. Certain posts may however be unsuitable for job sharing.	<b>Y</b>
<b>Working from home</b>	New technology makes communication with office and customers possible by telephone, fax and email from home, car or other remote locations	<b>Y</b> (part 2, paragraph 10.7 of the local conditions of service) Any regular home working arrangements would be agreed in accordance with the Council’s home working policy	<b>Y</b>
<b>Term-time working</b>	Employees work during school term time only. Their salary is calculated accordingly (based on the total number of weeks worked) and payment is spread across the year.	<b>Y</b> (part 2, paragraph 10.5.3 of the local conditions of service)	<b>Y</b>

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<sup>2</sup> for permanent agreements only

<b>Staggered hours</b>	Employees in the same workplace have different start, finish and break times – often as a way of covering longer opening hours	<b>N</b>	<b>Y</b>
<b>Annual hours</b> (implementation subject to further consultation)	This is a system that calculates the hours an employee works over a whole year. The annual hours are usually split into 'set shifts' and 'reserve shifts' which are worked as the demand dictates	<b>N</b>	<b>Y</b>
<b>Additional leave entitlement</b>	This may be agreed either unpaid or paid with salary re-calculated to take account of the extra leave. Additional leave may also be agreed as part of an annual arrangement	<b>N</b>	<b>Y</b>
<b>Compressed working hours</b>	Employees work their total agreed hours over fewer working days – for example, a five-day working week is compressed into four days	<b>N</b>	<b>Y</b>
<b>Shift-working</b>	This is the pattern of work in which one employee replaces another on the same job within a 24 hour period.	<b>Y</b>	<b>Y</b>
<b>Shift swapping</b>	Enables employees to negotiate their working times by re-arranging shifts among themselves with the proviso that the required shifts must be covered.	<b>N</b>	<b>N</b>
<b>Self-rostering</b>	Allows employees to nominate shifts which they would like to work leaving managers to compile shift patterns which match the individual preferences of staff to agreed staffing levels	<b>N</b>	<b>N</b>
<b>Time off in lieu</b>	This allows employees to take time off to compensate them for extra hours	<b>Y</b> (part 2, paragraph 10.2.5 of the local conditions of service)	<b>N</b>
<b>Unique working patterns</b>	These are individually tailored patterns which may involve a	<b>N</b>	<b>Y</b>

	combination of options		
<b>Career breaks</b>	These are unpaid breaks with a guarantee that they will be able to return to work at the end of the agreed period.	<b>Y</b> (part 3, paragraph 11.12 of the local conditions of service). Employees with one years' service with the Council may take an unpaid career break of between 6 months and 3 years duration in accordance with the scheme.	<b>N</b>
<b>Working reduced hours</b>	Managers at their discretion may approve the working of reduced hours on a temporary or permanent basis if the business needs of the service allow.	<b>Y</b> (paragraph 10.5 in parts 2 and 3 of the local conditions of service)	<b>Y</b>
<b>Extended leave</b>	Employees may request up to one years absence from work as a mix of paid and unpaid leave. One years notice to commence the leave is required	<b>Y</b> (part 2, paragraph 11.4 and part 3 paragraph 11.6 of the local conditions of service).	<b>N</b>
<b>Accumulated leave</b>	Employees may request to save up to a maximum of 10 days of their leave entitlement in any one leave year for a period of leave in a future leave year, up to a maximum of 30 paid days accumulated leave in total, to be taken as part of the extended leave arrangements	<b>Y</b> (part 2, paragraph 11.5 of the local conditions of service).	<b>N</b>

## 7. Making an application for flexible working

An employee can make a request to work flexibly if they have worked for the Council for 26 weeks at the date the application is made and have not made another application to work flexibly during the past 12 months (within the same post)\*.

\*In exceptional circumstances, requests will be considered within the 12 month period and within the same post but such request will not be considered using the Council's local procedure.

The employee will be required to submit an application using the Council's Flexible Working Application form, setting out their desired working pattern and how their proposal can be achieved taking into account the service needs and the effect on their colleagues.

As the procedure can take up to 14 weeks, employees need to allow time for the application to be considered and implemented. For example, if a request to job share has been submitted, the manager may agree to the request, subject to the successful

recruitment of a job-share partner. The manager will seek agreement with the employee to postponing a decision on the application until the outcome of the recruitment process.

An application must:

- Be in writing (whether on paper, e-mail or fax)
- Explain what effect, if any, the employee thinks the proposed change would have on the service and how, in their opinion, any such effect might be dealt with
- Specify the flexible working pattern applied for
- State the date on which it is proposed the change should become effective
- State whether a previous application has been made to the Council and, if so when it was made
- Be dated.

An application will be considered to have been made by email or fax on the day of transmission and if sent by post, the day on which it would have been delivered in the ordinary course of post, unless shown to be otherwise.

The manager will have 28 days after the day they receive the application to either agree to the request or arrange a meeting to discuss the application in accordance with the procedure as set out in the local terms and conditions of service.

#### Points to bear in mind when making an application

The following are suggested ways to help the manager consider a request from an employee:

- A new working pattern will normally be a permanent change unless otherwise agreed. The employee should think carefully about the request as they have no right to revert back to their former hours of work if the change to their contract is permanent.
- Employees should think about the date when they would like their new working pattern to start. They should take into account the fact that the process can take up to 14 weeks to complete and sometimes longer where a problem arises.
- The more notice the employee provides to the manager, the more likely the manager will be able to implement the change when it suits the employee.
- If the employee requests a flexible working pattern that will result in working fewer hours, they need to remember that the pay will reduce too.
- It is to the employees' advantage to provide as much detail as possible about the pattern they would like to work.
- It is important for employees to take time to consider how their colleagues will manage if the employees working pattern is changed. It may be useful, if employees have any colleagues or friends who are already working flexibly, to ask them about their experiences.
- Employees should think about what affect changing their working pattern will have on their job. They should aim to show in their application that their plans will not

have a negative effect on the service provided by their section/department and may in fact enhance it. It may mean that the employee is available to provide extra cover at peak hours, thereby improving customer service.

- Employees should think about whether the request will present any potential problems to the manager and how these could be overcome and ensure that these are included in the application. For example, it may mean that the employee will not be in work when the service starts. Consideration needs to be given to what effect this will have on the service and how this could be managed.
- Employees should check who will consider their application and ensure that they submit it to the appropriate person. If the person is absent, it may be necessary to send it to an alternative manager.
- If the employee is due to go on maternity leave they need to think carefully about when to make their request. The employee may wish to mention to their manager before they take leave that they are interested in applying to work flexibly on their return. The employee will need to take into consideration that they may need to attend meetings with their manager so that their request can be properly considered. If they want the changes to start on their return from maternity leave, they should make their application in good time.

If the application is incomplete, the manager will advise the employee of this and ask them to resubmit the application when complete. The Council will not be required to consider an application until the complete application has been resubmitted.

## **8. Following the local procedure**

The following is guidance on the application of the local procedure:

### The meeting

- The line manager will normally carry out the meeting, unless another designated manager has been identified for this purpose.
- The manager must hold a meeting to consider the request within 28 days of receiving the application.
- The employee will be able to bring another employee of the Council, including a trade union representative employed by the Council, to the meeting to represent them.
- The manager must write to the employee advising them of their decision within 14 days after the date of the meeting.

### The trade union representative/work colleague

- The employee's representative/colleague can address the meeting or confer with the employee during it.
- If the representative/colleague is unable to attend the meeting, the employee should rearrange the date for the meeting within five working days of the originally proposed time, ensuring the new time is convenient to all parties or consider an alternative representative/colleague. The meeting would not normally be



postponed a second time if the trade union or work colleague were again unavailable.

The meeting will provide the manager and the employee with the opportunity to discuss the employee's desired working pattern in depth and to consider how it might be accommodated. A successful outcome will be assisted if both the manager and the employee are prepared to be flexible. If the original working pattern cannot be accommodated, the meeting will provide an opportunity to see if an alternative working arrangement may be appropriate. Where it is in the interests of both parties a trial period can be agreed to see how the new pattern suits them both.

It might also be appropriate to agree that the change in the employee's working pattern will be for a time limited period, if, for example the employee wants to revert back to his/her current working pattern at the end of that period and the manager can accommodate this. For example, where the employee would prefer to spend more time with their child before entrusting their child to the care of a nursery.

In making a decision the manager must have regard to any relevant conditions of service relating to the particular request to work flexibly.

#### To ensure the employee gets the most from the meeting

The employee should:

- Be prepared to expand on any points in their application
- Be prepared to be flexible. The employee may be asked if there are any other working patterns they would be willing to consider or if they would consider another start date or a trial period.
- If they are taking a colleague/trade union representative to the meeting they will need to brief them fully on their request before the meeting. They should also give them a copy of their application and advise their manager that a colleague/representative will be present. This will save time at the meeting.
- Ensure they are familiar with this guidance before the meeting.

The manager should try to arrange the meeting at a time and place that is convenient to both parties. This will usually be the place of work, but they should be prepared to be flexible about this. For example, if the employee is a mother who is about to return from maternity leave, it may be that she will find it difficult to travel to her place of work. In such circumstances, the manager should discuss the meeting place with her and consider whether there is an easier place to hold the meeting.

If it is difficult to arrange a meeting within 28 days after the application is made at a time and place convenient to all parties, the manager should gain the employee's agreement to extend this period.

When the request has been discussed with the employee, the manager must notify the employee of the decision in writing. This must be done within 14 days of the date of the meeting.

If the request is accepted, the notification must:

- Include a description of the new working pattern
- State the date from which the new working pattern is to take effect
- Be dated

An application acceptance form can be used to confirm a new working pattern. The agreed working pattern will be a permanent change to the employee's terms and conditions of employment, unless otherwise agreed. There will be no automatic right to revert to the previous working hours and patterns, if the change to the employee's contract is permanent. However, where a trial period or time-limited period has been agreed this should also be set out in the written notice. In this case the manager will need to make it clear in the notice that the right will be reserved to require the employee to go back to the old working pattern if this is considered appropriate. An example of this could be allowing an employee to go part-time pending attempting to recruit a job-sharer for their former full-time post.

Where the parties agree there should be a trial period of the new working pattern the manager must also get the agreement of the employee to an extension of the 14 day period in which to inform the employee of the decision following the meeting. For example the extension could be to 14 days after the end of the trial period. This is necessary because the manager will not be making a final decision on the application until the end of the trial period. The manager must notify the employee of this final decision, using an application acceptance form or application rejection form as appropriate.

#### The refusal of an application

There will be circumstances where due to organisational reasons the manager would not be able to accept the request. In such circumstance the manager will be required to write to the employee to:

- State the organisational reasons why the application cannot be accepted
- Provide an explanation of why the organisational reasons apply in the circumstance
- Set out the appeal procedure

The organisational grounds for refusing an application will be one of the following:

- Burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality and/or performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes

#### The appeal process

It will not be possible for the manager to agree to a new working pattern in every case due to organisational reasons. In such case the reasons for the refusal will be made clear to the employee from the notice of refusal. However, there may be reasons why the employee feels that their request has not been considered properly and would wish to appeal.

- You will have 14 days after the date of notification of your manager's decision to appeal in writing. This should be submitted to the manager who heard your original application.
- If you make an appeal your manager must arrange an appeal meeting within 14 days after receiving notice of the appeal.
- The next level of manager should hear the appeal to the manager who considered the original request.
- You will be entitled to be represented at the meeting on the same basis as the original meeting.
- The manager who hears your appeal must inform the employee of the outcome of the appeal in writing within 14 days after the date of the meeting.

If the employee decides to submit an appeal they must set out the reasons for making the appeal, include any relevant documentation and ensure that it is dated.

If the appeal is upheld the written decision will:

- Include a description of the working pattern
- State the date from which the new working pattern is to take effect and
- Be dated

If the appeal is dismissed the written decision will:

- State the reasons for the decision
- Provide an explanation as to why the grounds for refusal apply in the circumstance
- Be dated.

If the employee misses the appeal meeting they should contact the manager as soon as possible to explain their absence. The manager will rearrange the appeal meeting at the next mutually convenient time. If the employee fails to attend an appeal meeting more than once without providing a reasonable explanation, the manager will be entitled to treat the application as being withdrawn. In such circumstances the manager will write to the employee confirming that the application was now considered withdrawn.

The appeal decision will be final.

Employees cannot generally raise a grievance to complain about or object to the fact that the request has been refused. The only exception would be if the grievance is that the reason for refusal amounts to unlawful discrimination or that the true reason is not the reason given.

### Extension of time limits

There may be exceptional circumstances when it is not possible to complete a part of the procedure within the specified time limit. The manager and the employee can therefore agree an extension of time. The manager must keep a written record of the agreement.

The written record must:

- Specify what period the extension relates to
- State the date the extension is to end
- Be dated and
- Be sent to the employee

Examples of exceptional circumstances include:

- By agreement by the manager and the employee

For example, it might be that the manager needs extra time to speak to another employee who is on holiday about whether they could work the hours left uncovered by the employee's requested working pattern. Or the employee themselves may be going on leave and would not be able to attend a meeting within the time limit. An extension of time in this case can only occur if the manager and the employee agree it.

- Through the manager's absence

Where an application is sent to the manager who normally deals with the request and the manager is absent from work due to leave or sickness, an automatic extension applies. The period that the manager has to arrange the meeting will start either on the day of the manager's return or 28 days after the application is made, whichever is sooner. On the manager's return it will be advisable to acknowledge receipt of the application so that the employee is aware that the extension has applied and the period when they can expect to meet their manager to discuss the request. There are no other circumstances where an automatic extension to any period applies.

#### Applications treated as withdrawn

There will also be occasions when an application is treated as withdrawn. In all circumstances a written record must be kept. The notice of withdrawal form can be used for this purpose. There are three reasons why an application may be treated as withdrawn:

- The employee decides to withdraw the application

An employee who withdraws their application will not be eligible to make another application for 12 months (within that post) from the date their application was made. Where the employee decides to withdraw their application, they should notify their manager in writing as soon as possible. A manager who is informed verbally that the application is withdrawn by the employee but does not subsequently receive written confirmation should contact the employee to confirm their intentions. Where the manager does not receive confirmation from the employee, the manager should confirm the withdrawal in writing.

- The employee fails to attend two meetings

Where the employee misses two meetings without reasonable cause, the manager may treat the application as withdrawn. If for example, an employee misses a meeting for a reason such as their child falling ill and informs the manager straight away, the manager should treat this sympathetically. However, if an employee misses a meeting and does not explain why, then they can expect their absence to be treated less sympathetically. The manager should warn the employee that they

risk their application being treated as withdrawn if they miss another meeting without reasonable cause when rearranging the meeting.

- The employee unreasonably refuses to provide the employer with the required information

There may be occasions where the manager is willing to accept a request for flexible working but requires the employee to provide them with certain information before they can do so. If the employee unreasonably refuses to provide the manager with the information, then the manager can treat the application as withdrawn. For example, an office worker may request to work from home part-time and the manager may wish to ensure their working space meets the health and safety standards. If the employee refuses to comply, the manager may treat the application as withdrawn.

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## **Flexible Working Application Form**

### **Note to the employee**

You are advised to use this form to make an application to work flexibly. Before completing this form, you should first read the Employees Guide to Flexible Working and check that you are eligible to make a request. This guide is available on the Council's Intranet.

You should note that it may take up to 14 weeks to consider a request before it could be implemented and possibly longer where difficulties arise. You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect. The person who considers your request is referred to in this form as 'the manager'. S/he will normally be your line manager but may be another manager designated for this purpose.

It will help your manager to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions, as otherwise your application may not be valid. When completing sections 3 & 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues. Once you have completed the form, you should immediately forward it to your manager (you might want to keep a copy for your own records). Your manager will then have 28 days after the day your application is received in which to arrange a meeting with you to discuss your request. If the request is granted, this will be a permanent change to your terms and conditions unless otherwise agreed.

#### Note to the manager

This is a formal application for flexible working and you have an obligation to consider the application seriously. You have 28 days after the day you received this application in which to either agree to the request or arrange a meeting with your employee to discuss their request. You should confirm receipt of this application using the attached confirmation slip.

#### 1. Personal Details

Name:	<input type="text"/>	Employee number:	<input type="text"/>
Manager:	<input type="text"/>	National Insurance No:	<input type="text"/>

#### To the manager

I would like to apply to work a flexible working pattern that is different to my current working pattern. I confirm I meet the conditions below:

- I am an employee
- I have worked for the Council for 26 weeks at the date my application is made
- I have not made another application to work flexibly during the past 12 months (within the same post)

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

**2b. Describe the working pattern you would like to work in future (days / hours / times worked):**

(You may continue on a separate sheet if necessary)

**2c. I would like this working pattern to commence from:**

**Date:**

**and (if applicable) to end on:**

**Date:**

**3. Impact of the new working pattern**

I think this change in my working pattern will affect my service area and colleague(s) as follows:

**4. Accommodating the new working pattern**

I think the effect on my service area and colleague(s) can be dealt with as follows:

**Name:**

**Signature**

**Date**

**NOW PASS THIS APPLICATION TO YOUR MANAGER.**

Cut this slip off and return it to your employee in order to confirm your receipt of their application

**Employer's Confirmation of Receipt** (to be completed and returned to employee)

Dear:

I confirm that I received your request to change your work pattern on:

Date:

I shall be arranging a meeting to discuss your application within 28 days following this date. In the meantime you might want to consider whether you would like a fellow colleague or trade union representative to accompany you at the meeting.

From:

Signature: