



London Borough
of Hounslow

Flexible Working Policy

Transformation & Human Resources

Issued by HR Policy Team
Effective from 8 August 2014

RIGHT TO REQUEST FLEXIBLE WORKING

1 INTRODUCTION

Purpose

- 1.1 This policy provides a procedure for dealing with requests from employees to vary their working pattern. The policy incorporates the statutory right of employees to make a request to work flexibly and to have their request dealt with in a “reasonable manner”. It also sets out managers’ responsibilities when dealing with such requests.

Scope and Eligibility

- 1.2 Under provisions set out in the Employment Rights Act 1996 and changes brought in by the Children and Families Act 2014, all employees who have a minimum of 26 weeks’ continuous service have the right to request flexible working and to have their request considered seriously.
- 1.3 This policy applies to all employees of the Council except those employed in schools under the control of Governing Bodies, for whom their procedures will apply. Employees are as defined in section 230 of the Employment Rights Act 1996 or any substituting or amending legislation. The policy does not therefore apply to agency workers, consultants or self employed contractors.
- 1.4 To be eligible to apply employees must:
- have worked for Hounslow Council for 26 weeks continuously at the date of their application
 - not have made a previous application under this policy during the past 12 months.

- 1.5 Employees should note where an application for flexible working under the statutory right has been requested and approved (or otherwise), they do not have a statutory right to request another variation in contractual terms for a period of 12 months.

Representation

- 1.6 Employees may be accompanied by a trade union representative or a work colleague at formal meetings set out in this policy.

Responsibility of Managers

- 1.7 The law requires that all requests, including any appeals, must be considered and decided on within a period of three months from first receipt, unless an extension has been agreed.

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- 1.8 To this end timescales are set out in the policy which if followed, will enable the process to be completed within the prescribed three months.
- 1.9 These time limits may be extended by agreement between the manager and the employee. In all instances a written record should be made and a copy sent to the employee.
- 1.10 The Right to Request Flexible Working: an ACAS Guide provides guidance on handling requests in a reasonable manner and is recommended to managers. The Guide is accessible on the ACAS website: www.acas.org.uk

2 FLEXIBLE WORKING OPTIONS

- 2.1 Flexible working can incorporate a wide range of working practices and can be any working pattern other than the employee's contractual working pattern. See Appendix for examples of flexible working.
- 2.2 Employees can request a permanent or fixed term change to their working hours or a change to their pattern of work.
- 2.3 Requests made on a fixed term basis should not exceed a period of six months. At the end of the fixed term period the employee will be expected to revert back to their previous contractual working pattern. If the employee then wishes to make the arrangement permanent they should discuss the possibility with their manager prior to the end of the fixed term period. A further application is not required. Managers should however respond using the process outlined in paragraphs 3.8-3.23 when arriving at their decision.
- 2.4 This policy does not apply to a short term or one off request that an employee might make to vary their working hours/pattern to coincide with a domestic requirement. Such requests should be addressed informally by the manager.
- 2.5 Managers who receive requests to work flexibly will forward a copy of all correspondence to Human Resources for monitoring purposes. Advice can also be sought from Human Resources on the procedure.

3 PROCEDURE FOR APPLYING TO WORK FLEXIBLY

Making a request

- 3.1 All requests must be made in writing. To apply, an employee should complete the Request for Flexible Working Form, available on the intranet under HR Forms, and return to their manager who will acknowledge receipt.

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- 3.2 When submitting requests employees must include the following information:
- date of the application
 - the changes being sought to terms and conditions
 - the date on which they would like the changes to take effect
 - what effect the changes might have on their role/service area
 - how, in their opinion, any such effect might be addressed
 - a statement that this is a statutory request
 - if and when they have made a previous request for flexible working
- 3.3 The employee should also state if they are making their request in relation to the Equality Act 2010, for example, as a reasonable adjustment for a disability.
- 3.4 Where the above information has not been provided, the line manager should explain to the employee what additional or amended information is required and ask the employee to resubmit their application.
- 3.5 Employees are reminded of their obligations under the Council's Code of Conduct for Employees. In particular, attention is drawn to the sections on "personal interests" and "life outside work". Employees must declare any interests that may arise from a request or an approval to work flexibly.
- 3.6 Women returning to work from maternity or adoption leave and wanting to apply for flexible working under this policy, should submit their application at least two months before they are due to return to work (or as soon as is reasonably practicable). This is to maximise the possibility of new arrangements taking effect from their return.
- 3.7 An employee who has returned from maternity or adoption leave on a phased return (see Maternity & Adoption Policy) and then wishes to submit an application to work flexibly, should provide at least two month's notice before the end of the phased return period (or as soon as is reasonably practicable).

Meeting with Employee

- 3.8 The manager should meet with the employee within 28 days of receiving the application. Where a request can without further discussion be approved on the terms requested by the employee, a meeting will not be necessary. In which case the manager should, within 28 days of receiving the application, write to the employee notifying them of the decision. See 3.17
- 3.9 At the meeting the employee may be accompanied by their trade union representative or a work colleague. The purpose of the meeting is to:

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- find out more about the proposed working arrangements and how they would work in practice
- talk through any problems which may arise from the proposed changes
- discuss alternative working arrangements if the requested working pattern cannot be accommodated
- consider possible start dates
- agree on a trial period if necessary
- explain the effect that their request will have on terms and conditions e.g. reduction in pay, annual leave.

3.10 If a meeting cannot be arranged within the specified 28 days then the manager should seek the employee's agreement to extend the period and confirm in writing. Managers should be mindful of the legal requirement set out in 1.7.

Considering the business case of a request

3.11 Following the meeting managers should consider the information available; carefully weighing up the benefits of the proposed changes against any adverse business impact of implementing them. Each request will be considered on a case by case basis; agreeing to one request will not set a precedent or create the right for another employee to be granted a similar change to their working pattern.

3.12 Whilst the decision will be arrived at case by case, based on the business needs of the service, it is also important that managers do not discriminate unlawfully against the employee because of any protected characteristic under the Equality Act 2010¹. If unsure further advice should be sought from the HR Advisory Team.

3.13 The business case for each application will necessitate careful consideration of the work involved and assessing any detrimental effect the change could have on the individual, team or service performance and any cost implications.

3.14 The line manager will therefore as a minimum take into account the following to ensure that service delivery is not compromised:

- the cost of the proposed arrangement
- the level of supervision that the postholder requires
- the impact of any variation of working hours on the employee's health and performance (e.g. working a compressed week)

¹ The Equality Act 2010 prohibits discrimination because of protected characteristics. These are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

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- an analysis of the tasks specific to the role, including their frequency and duration, and of the workload
- the structure of the team and staff resources
- the effect of the proposed arrangement and residual work on other staff
- any other team specific issues

3.15 Within **14 working days** of the meeting the line manager will write to the employee to inform them that their request has been accepted or refused. If further time is needed to make a decision, the manager should agree an extension with the employee and confirm in writing.

Successful Applications

3.16 Requests may be granted in full or in part; for example the manager may have proposed:

- a modified version of the request
- granting the request on a temporary basis
- a trial period for the flexible working arrangements

3.17 Where the employee's request is accepted the written notification must:

- confirm acceptance and include a description of the new working pattern or confirm a compromise agreed at the meeting
- state the date from which the new working pattern is to take effect
- if relevant, state that any agreement to work a job share arrangement is subject to a job share partner being found
- state any agreed trial period arrangements
- include a reminder that the change is a permanent change to the employee's terms and conditions of employment and specify what these are (unless the request was for a fixed term)

3.17 Implementation of the change will be as soon as possible, though this may be dependant upon other factors e.g. a job share partner being recruited.

3.18 The manager will need to notify their HR Advisory Team of the agreement in good time of the date of effect to ensure that contractual changes are made as appropriate.

Trial Periods

3.19 New arrangements may be subject to a trial period (of no more than three months) where appropriate. The length and terms of the trial period will be discussed with the employee prior to any changes being implemented and will be determined on a case by case basis, dependent on the nature of the change and role being performed by the employee.

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- 3.20 During the trial period line managers should:
- hold regular meetings/discussions with the employee
 - discuss the suitability of the revised working arrangements and
 - agree any necessary adjustments
- 3.21 If, on completion of the trial period, the line manager and/or the employee determine that the new arrangements are inappropriate and no suitable adjustments can be made, the employee will be required to revert to the terms and conditions that applied previously. Employees will have the right to appeal against this decision (see 3.28-3.36).
- 3.22 All amendments to arrangements will be confirmed in writing and conveyed to the appropriate HR Advisory Team, in good time for appropriate action.

Unsuccessful Applications

- 3.23 The line manager must have a clear business reason for refusing a request (see 3.14), which falls into one of the following categories:
- 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 intends to work
 - a planned structural change to the business
- 3.24 The reason(s) for the refusal must be clearly set out in the decision letter.

Withdrawal of application

- 3.25 There will be occasions when an application may be taken as withdrawn. These are if the employee:
- withdraws their application
 - without reasonable cause, fails to attend two meetings
 - without reasonable cause, refuses to provide the required information
- 3.26 Confirmation of withdrawal should be provided in writing or requested from the employee if they had verbally withdrawn their application.
- 3.27 Employees whose applications are withdrawn without reasonable cause will not be eligible to make another application for 12 months from date of their application.

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Appeals

- 3.28 Employees have a right of appeal should their request not be approved or if their request was upheld in part. Appeals must be lodged in writing within 5 working days of receiving the notification and must state the basis of the appeal, together with any supporting papers.
- 3.29 Appeals will be heard and Chaired either by the next level of management or another independent manager.
- 3.30 Arrangements for the appeal hearing will be the responsibility of the officer identified in 3.29. The panel will comprise a minimum of two officers and may include a representative of Human Resources.
- 3.31 The appeal meeting should be held within 14 days of receipt of the appeal and employee will be given at least 3 working days' notice of the meeting.
- 3.32 The employee will be required to attend the appeal to present their case and may, if they wish, be accompanied by their trade union representative or a work colleague.
- 3.33 The panel may seek clarification or verification of information from the manager before responding to the employee.
- 3.34 The Chair of the appeal panel will inform the employee of the outcome of the appeal in writing within 14 days of the appeal meeting.
- 3.35 If the appeal is upheld the written notification should:
- include a description of the new working pattern
 - state the date from which the new working pattern is to take effect
 - include a reminder that that the change is a permanent change to the employee's terms and conditions of employment (unless the request was for a fixed term)
- 3.36 If the appeal is dismissed the written notification should:
- state the grounds for the decision. These will be appropriate to the employee's own grounds for making the appeal
 - provide an explanation as to why the grounds for refusal apply in the circumstances

4 TERMS AND CONDITIONS OF EMPLOYMENT

- 4.1 Where an employee's working hours are reduced, salary will be paid pro-rata to the full time equivalent in accordance with the number of hours worked. Other terms of conditions e.g. annual leave, will also need to be amended to reflect pro-rata entitlements.

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- 4.2 Applications that are approved will be a permanent change to the employee's contractual terms and conditions, unless the approval is for a fixed term. The employee has no right to revert to the previous working pattern.
- 4.3 The manager must notify their HR Advisory Team so that revised contracts letters confirming the new terms and conditions can be issued and the appropriate changes made to the Establishment.

Job Sharing

- 4.4 Job sharing is defined as an employee who works part time and shares all the duties and responsibilities of a full time position with another employee. The total full time hours for job sharers must not exceed the full time hours as set by the terms and conditions of the post. For most posts this will be 36 hours per week.
- 4.5 Requests for job share will only be considered where two applicants are jointly applying for one post.
- 4.6 Job share partners do not need to be paid at the same spinal column point within the grade of the post e.g. one partner may have longer service and consequently be on a higher spinal column point. Bank holiday entitlements will be shared proportionally between the two employees.
- 4.7 An existing employee who wishes to reduce their hours may make a request for flexible working setting out their reasons and the hours being sought. As part of the consideration the manager will determine how the request might be accommodated. This may include advertising the remaining hours as a job share arrangement.
- 4.8 If a job share vacancy cannot be filled after a period of three months, the manager, in consultation with the employee, and with the approval of the Chief Officer and Human Resources may revert the post to full time or if possible agree to part-time hours.
- 4.9 Where a job share partner leaves, the hours they worked may be offered to the remaining partner. However the remaining employee does not have an automatic right to these hours.
- 4.10 A former job sharer who continues in a part time post i.e. where there is no longer a job share partner; will revert to wholly part-time terms and conditions.
- 4.11 Contractual changes to any job share arrangements must be notified to the HR Advisory Team so that revised contracts can be issued and the appropriate changes made to the Council's establishment list.

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5 MONITORING

- 5.1 Applications for flexible working will be monitored by Human Resources. Any trends or issues of concern will be reported to HR SMT for further consideration.

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APPENDIX – TYPES OF FLEXIBLE WORKING PATTERNS

Examples of the most common forms of flexible working are given below. Some employees may wish to combine two or more of these patterns. Not all working patterns are appropriate for all jobs and both employees and managers should carefully consider service needs before requesting or agreeing any of these patterns.

Pattern	Brief description
Flexi-time	Flexibility at the beginning and end of the working day. Details on the Council's scheme can be found on the intranet. Some teams do not currently operate flexi-time but managers should consider individual requests on their merit.
Part-time	Fewer than the contracted hours. For example, an employee might wish to start work later and/or finish early for the purpose of the school run.
Job share	The "normal" pattern of a job share is a 50/50 split between 2 employees. This can be worked as 2.5 days per sharer per week, a morning/afternoon split or 3 x 6 hour days each to cover the standard 36 hour week. Agreement to a job sharing arrangement is always conditional on a job share partner being found.
Term time working	Employee does not work during school holidays but their salary is paid in 12 equal monthly instalments. The contract usually specifies that no annual leave should be taken during term time.
Compressed hours	Total contractual weekly hours are worked over fewer working days, e.g. a five day week is worked over four days or a ten day fortnight is compressed into nine days.
Annualised hours	Contractual working hours expressed as the total hours worked over the year, allowing flexible working throughout this period. Usually the hours are divided between set hours and reserve hours when the employee can be called into work as demand dictates (i.e. to cover unplanned work and employee absence).
Staggered hours	Employees in the same team/workplace have different start, finish and break times.
Home working	Employee performs all or a proportion of their contractual hours from their home. The Council does not have an agreed home working policy and managers should exercise discretion when considering individual requests. Such requests should not be used to replace child care or carer arrangements.
Flexible retirement	Enables employees to continue working (albeit in a different capacity e.g. reduced hours) while accessing their accrued benefits. All requests should be made in accordance with the Flexible Retirement policy.

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