

## Flexible Working Policy

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## **1.0 Introduction**

This policy has been produced to provide managers and staff with sufficient information in relation to staff requesting flexible working hours.

It applies to all council employees.

This policy aims to detail the employee's rights, the procedure for requesting flexible working and the responsibilities of employees, managers and Human Resources.

West Lindsey District Council is committed to supporting employees to achieve a work / life balance and flexible working is seen as a key driver in enabling employees to achieve this. All requests will be dealt with in a reasonable manner and wherever possible, the employee's needs will be met.

Appendix A provides a visual timeline of events, as a brief visual guide to this policy.

## **2.0 Employee rights and eligibility**

Under provisions set out in the Employment Rights Act 1996 and regulations made under it, all employees have a statutory right to ask their employer for a change to their contractual terms and conditions of employment to work flexibly provided they have worked for their employer for 26 weeks continuously at the date the application is made.

Employees should only make only one request in a 12 month period, unless the employee is entitled to additional requests if they relate to a statutory entitlement, eg the Equality Act 2010 right to request reasonable adjustments.

The law required that all requests, including any appeals, must be considered and decided on within a three month period from when the request is submitted. Unless managers agree to extend this period with the employee.

Agency workers or employees who have been employed for less than 26 weeks do not have a statutory right to request flexible working. Nevertheless, the Council will still consider a request from these groups as flexible working can bring business benefits as well as benefits to the employee.

Before June 2014 the right only applied to the parents of children under 17 or 18 in the case of parents of disabled children or to those caring for an adult. Now any eligible employee can apply to work flexibly for any reason.

## **3.0 Types of flexible working**

Whilst the Council do not want to be unnecessarily prescriptive about the flexible working options available, the following illustrate some of the most common types of flexible working:

### **3.1 Annualised hours**

Employees are contracted to work a set number of hours over a whole year and can

balance their attendance according to peaks and troughs in workloads.

### **3.2 Compressed hours**

Employees can work their usual full time hours in fewer days by working longer blocks meaning that there is no reduction in their pay. For example, a five-day week is compressed into four days, or a 10-day fortnight into nine days, thus gaining themselves extra free time.

### **3.3 Extended holiday**

In addition to normal holiday entitlement, employees can request four weeks additional unpaid holiday once every three years; this would normally be taken in one block and added on to the main annual leave.

### **3.4 Part year working / Term time only**

Part year contracts, for example term time only, give employees the opportunity to reduce their hours or take unpaid time off eg during school holidays. In such cases the employee's salary and annual leave would be reduced accordingly and their salary would be paid in 12 equal payments throughout the year, including holiday pay. Annual leave should be taken during the periods the employee is not working.

### **3.5 Voluntary reduced hours / Part time working**

Employees voluntarily reduce their hours of work on either a temporary or permanent basis with pay and benefits adjusted accordingly. Temporary reduction in hours is for a specified period of up to 12 months with the guarantee that full time employment will become available at a specified date. At the specified date the employee will usually revert to their substantive working hours although this can be reviewed and re-negotiated. If operational circumstances change, the Council reserves the right to review the voluntary reduction; termination of the arrangement will only be after all other options have been explored. If arrangements have to be changed, the employee will be given one months' notice of the change. If the employee wishes to change the arrangement, they must give one months' notice.

### **3.6 Job sharing**

This is where a full time post is divided into two part time posts. The two job holders then share the overall duties and responsibilities. Their skills and the hours each employee wishes to work must be compatible and meet the needs of the organisation. Pay and benefits are shared in proportion to the hours each works. Job sharing can be considered where the creation of a single part time post is difficult, or where two individuals wish to work part time.

### **3.7 Working from home**

This is where an employee regularly carries out all or part of their duties from home rather than West Lindsey District Council premises. This can be considered as being an occasional agreed day, a mix of home and office based work each week, or a full time arrangement.

### **3.8 Temporary or Permanent changes**

A temporary change may be requested to meet a short-term need, for example, to care for a sick child. Where it is possible to agree a temporary change this will be subject to review on a monthly basis but it is not expected that such a change will be for longer than three months.

Most requests to change working patterns will be for a permanent change. Once a change has been agreed, the employee cannot request a further change for 12 months.

### **3.9 Additional initiatives provided by the Council**

In addition to the above suggestions for working flexibly, the Council also provides for:

- Maternity leave
- Paternity leave
- Adoption leave
- Parental leave
- Emergency Carers leave
- Flexi-time
- Flexible Retirement

These are covered by separate policies which are available on Minerva.

## **4.0 Needs of the organisation**

West Lindsey District Council is committed to providing a range of appropriate working patterns. However employees and management need to be realistic and to recognise that not all flexible working options will be appropriate for all roles.

Where a flexible working arrangement is proposed the manager will need to take into account a number of criteria including (but not limited to) the following:

- The costs associated with the proposed arrangement
- The effect of the proposed arrangement on other staff
- The need for, and effect on, supervision
- The existing structure of the department
- The availability of staff resources
- Details of the tasks specific to the role
- The workload of the role
- Whether it is a request for a reasonable adjustment related to a disability
- Health and safety issues.

### **4.1 Advantages and benefits**

There are a number of advantages and benefits of flexible working to both the employee and the Council and these are listed below:

#### **Employer of Choice**

The Council is committed to recruiting and retaining a skilled and diverse workforce. In doing so we believe that well motivated staff who enjoy a good work/life balance can help achieve this. Flexible working helps build a positive image of the Council among its customers and the community.

### **Staff Retention**

Offering flexible working patterns will help the Council retain valuable employees who, because of their personal circumstances, would otherwise be unable to balance work with domestic issues and may have no alternative but to leave their job. By working flexibly, employees can fit in the demands of home life within their working life and are noticeably more committed to employers who facilitate this.

### **Equal Opportunities**

Flexible working allows the Council to attract a wider pool of potential employees who might otherwise not be able to apply.

### **Employee Health**

Flexibility can help reduce the stress that many employees feel when trying to balance the demands of both home and working life.

### **Job Satisfaction**

ACAS report that employees who work flexibly often have a greater sense of responsibility, ownership and control of their working life. If a manager helps an employee to balance their work and home life this can be rewarded by increased loyalty and commitment. Employees should be valued for their contribution to the business, not their working pattern.

### **Reduced Absence and Employee Turnover**

According to the CIPD, flexible working means that staff are off work less frequently and are less likely to leave, with a corresponding reduction in recruitment, induction and training costs.

## **5.0 EMPLOYEE - Making an application**

Employees are required to take the following course of action to make a flexible working request.

In order to allow sufficient time for a request to be considered and any other action to be taken, employees should allow as much time as possible before they wish their revised arrangements to take effect.

### **5.1 Informal discussion**

Employees wanting to make an application should first think about the following points before having an informal discussion with their manager to talk about their ideas:

- The needs of the business
- The impact on other staff
- The impact on customers and other people who may be affected
- How any problems might be resolved
- The impact their request may have on their personal circumstances such as earnings or pension, eg if seeking shorter hours.

## **5.2 Complete the 'Flexible Working Request' form**

Once employees have discussed their ideas and decided that they wish to make a formal request, they should complete the 'Flexible Working Request' form and submit it to their Manager.

If the employee is making the request in relation to the Equality Act, eg as a reasonable adjustment relating to a disability, this should be made clear on the 'Flexible Working Request' form.

## **6.0 MANAGER - Handling the request**

Each request will be considered on a case-by-case basis. Agreeing to one request will not set a precedent to create the right for another employee to be granted a similar change to their working pattern.

Managers would normally receive one request at a time and they should follow the process listed below. However, there may be occasions where a manager receives more than one request to work flexibly. Requests should be considered in the order they are received.

It may be possible to grant both requests, however the manager should take time to consider the impact this would have on the team before coming to a decision. Managers should not make value judgements about the most deserving request, but consider each request on its merits, looking at the business case and the possible impact of refusing a request. The manager may want to have a discussion with the employees to see if there is any room for adjustment or compromise before coming to a decision.

### **6.1 Check the request**

Once a manager receives a request, they should check that the form has been completed in full. If it does not contain all of the required information, the manager should explain to the employee what additional or amended information they need to provide and ask the employee to resubmit the request.

### **6.2 Meet with the employee**

Managers have 28 days from the day after they received the application to meet with the employee to discuss the request and the impact of the change. Employees are entitled to be accompanied by a work colleague or their trade union representative. Managers may also meet with other employees who might be effected by the request.

If the manager feels they can agree to the changes without holding a meeting, they should write to the employee and confirm this within 28 days from the day after receipt of the application.

The purpose of the meeting is to discuss exactly what changes the employee is seeking and consider how the request could be accommodated. Both the manager and the employee should be prepared to be flexible. If the original proposal cannot be accommodated, alternative working arrangements should be explored and the manager

may suggest a compromise between the changes the employee has requested and those which are operationally possible.

The discussion should ideally take place at a time and location which is convenient to both the manager and employee. If the manager or employee cannot make the initial date then another date and time should be arranged within seven days of the original meeting. However if an employee doesn't keep to a meeting and any subsequent rearranged one without a reason, then the law allows the manager to deem the application is withdrawn. The manager should find out and consider the reasons for the employee failing to attend both meetings before reaching any decision to close their application. The manager must notify the employee of the decision.

### **6.3 Making a decision on the request**

When considering a request for flexible working managers need to consider:

- Will the proposed change enable the employee to perform better at work as their work / life balance is improved?
- Will there be any additional costs in agreeing to the request?
- Is there likely to be a detrimental effect on the ability to meet customer or service requirements?
- Can the work be reorganised among other colleagues?
- Is it possible to recruit extra staff to fill any gaps?
- Is there likely to be a detrimental effect on quality or performance?
- Will there be enough work at the time the employee wants to work?
- Are there any planned structural changes which may impact on the request?

If a manager is unable to approve a request in an environment where a number of other employees are already working flexibly, and any further flexible working arrangements will impact adversely upon the Council, the manager should consider calling for volunteers from existing flexible working employees to change their contracts back to other arrangements, thereby creating capacity for granting new requests to work flexibly.

### **6.4 Agreeing the request**

Once the Manager has made a decision, they should communicate this to the employee in writing within 14 days of the meeting.

The letter should contain full details of the changes and should include a section at the bottom for the employee to confirm they accept;

- permanent or temporary change
- what date the changes will take effect
- clarify their new working hours, working pattern or place of work
- pay and benefits will be pro-rata'd, if necessary.

A template letter is available on Minerva to assist, but due to the varied nature of requests,



managers will need to add or delete things as necessary. Support and advice is available from Human Resources if necessary. A signed copy of this letter should be emailed to Human Resources so that the changes can be logged on the employee's personnel file and any changes to payroll can be made.

## **6.5 Trialling new working arrangements**

In some cases, it may be worth trialling the new working arrangements to make sure that the needs of the service are met, especially if managers are not sure of the impact of the proposed working pattern.

Trial periods should be between 4 and 13 weeks. This will give managers the opportunity to see if the arrangements suit the needs of the Council and to see how the changes would be likely to work in the long term.

Managers should write to the employee to agree to the changes on a temporary trial basis and give them an end date. Managers should review the changes on a regular basis with the employee and promptly address any problems with the new way of working.

If, at the end of the trial, the requested working arrangements are accepted, then the temporary terms and conditions will become permanent. The manager should write to the employee to confirm this.

If it is decided that the trial period has not been successful, the employee should be told the reasons why and be given one month's notice of the ending of the trial period in order to allow re-adjustment back to the previous terms and conditions of employment. This should be confirmed in writing.

## **6.6 Rejecting an application**

Managers should confirm their decision in writing to the employee, within 14 days of the meeting. A template letter is available on Minerva to assist, but due to the varied nature of requests, managers will need to add or delete things as necessary. Support and advice is available from Human Resources if necessary.

Requests to work flexibly must be considered objectively and a Manager can only refuse them if there are business reasons for doing so. These business reasons are set out in legislation and are listed below. The letter should contain a statement of how the business reason applies to the individual's case:

**a) The burden of any additional costs is unacceptable to the organisation.**

In considering this, managers should reflect on the proposal's less obvious savings, such as a reduction in overheads from homeworking and better coverage of service or increased outputs.

**b) An inability to reorganise work among existing staff.**

A manager should consider the cost of recruiting additional staff against the potential cost of losing the existing member of staff making the request. Also consider talking to the team about any reorganisation of work where this would be appropriate before coming to a decision.

**c) Inability to recruit additional staff.**

For example, if an employee wanted to reduce from five days per week to four, it could be difficult to recruit an additional member of staff for one day a week.

**d) The manager considers the change will have a detrimental impact on quality.**

Managers should look carefully at the skills and potential of other employees when considering this reason. With training, many staff can acquire new skills.

**e) The manager considers the change would have a detrimental effect on the Council's ability to meet customer demand.**

When considering the impact on the Council of a flexible working arrangement, a manager can trial an arrangement for a fixed period to see if it is sustainable over the longer term.

**f) Detrimental impact on performance**

Performance can mean of the individual, the team or the whole Council.

**g) There is insufficient work during the periods the employee proposes to work.**

For example, an employee whose job it is to answer phone calls from customers. If they requested to work part of their hours early in the morning before normal office hours, it could be suggested that there would be less calls at this time and therefore insufficient work for the individual.

**h) Planned structural changes, for example, where the Council intends to reorganise or change the business and considers the flexible working changes may not fit with these plans.**

If a manager has plans to make changes to the business, then it is good practice to share these with the workforce as it could help them see opportunities through flexible working to make the business more effective.

## **6.7 Avoiding unlawful discrimination**

In considering the business reasons to reject an application, a manager must be careful not to inadvertently discriminate against particular employees because of their protected characteristics. Such as where flexible working arrangements would be a reasonable adjustment for a disabled employee, or for employees which childcare responsibilities.

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
- Sexual orientation

## **6.8 Withdrawing an application**

An employee can withdraw their application at any time. They should confirm this to their manager in writing.

If an employee doesn't keep to a meeting and any subsequent rearranged one without a reason, then the law allows the manager to deem the application is withdrawn. The manager should find out and consider the reasons for the employee failing to attend both meetings before reaching any decision to close their application. The manager must notify the employee of the decision.

## **6.9 Extension of time limits**

The statutory scheme requires the Council to arrange meetings and give decisions within specified timescales, unless the employee agrees to extend these. If a manager is absent on sick leave or holiday at the time of an application for flexible working, a period of grace of up to 28 days will apply before the timescales commence.

If following the meeting to discuss the application, more time is needed to investigate the request, you should ask the employee to agree an extension to 14 days in order to reach a decision.

Any agreement to extend timescales must be agreed and confirmed in writing to the employee.

## **7.0 Appeals**

If an employee is unhappy with the Manager's decision or they think it was not dealt with reasonably in line with this policy, they have the right to appeal. Employees should appeal to Human Resources in writing within seven working days of the decision to reject their request.

Appeals should take place within 3 months of the original request date, unless an extension is agreed with the employee.

The appeal will be heard by a Manager more senior than the Manager who dealt with the request originally. Employees are able to be accompanied by a work colleague or their trade union representative.

Once a request is turned down, an employee may not make another request for 12 months, unless they change jobs within the Council.

## **8.0 Documentation required**

Managers and employees should ensure that all documentation, paperwork and completed forms are scanned and emailed to the Human Resources team via [human.resources@west-lindsey.gov.uk](mailto:human.resources@west-lindsey.gov.uk). These documents will be added to the employees personnel file and/or processed during the next available pay run.

Any paperwork required to be processed through Payroll, must be received by the Human Resources team by the 5<sup>th</sup> of the month.

### **Policy Statement**

West Lindsey District Council has a commitment to equal opportunities.

It seeks to ensure that no potential or current employee receives less favourable treatment than another on the grounds of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

## A. Flexible Working Timeline

