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# Flexible Working Policy and Procedure

Status of Policy: Non-Contractual

Review Date: insert date

Policy applies to: Employees of the [organisation]

1. Introduction

This policy sets out the organisation’s approach to flexible working arrangements. The policy and procedure reflect the ACAS code of practice and guidance on handling requests to work flexibly in a reasonable manner.

The organisation recognises that flexible working can provide benefits to both members of staff and to the organisation, and aims to support staff, where it is possible and practicable, to manage the balance between work and home life.

2. Principles

Under the terms of the Children and Families Act 2014, all employees have a statutory right to request a change to their contractual terms and conditions of employment to work flexibly, subject to the eligibility conditions at Section 3 (below).

This doesn’t give employees an automatic right to work flexibly – but it does provide the right to request flexible working and means that employers and managers have a duty to handle requests in a reasonable manner.

Requests for flexible working may be made for any reason and are not restricted to employees with family care commitments. Therefore people can ask to work flexibly for a wide variety of reasons – such as to attend a further education course, to pursue hobbies, to combine working with looking after children or grandchildren, or simply to improve their work-life balance.

The organisation will try to accommodate requests where possible and may also, if appropriate, explore alternative flexible arrangements with the employee in order to reach a mutually beneficial arrangement.

Requests for reasonable adjustments to working hours associated with ill-health or disability may be addressed with reference to the Sickness and Absence Policy and Procedures, where appropriate

3. Eligibility

In order to make a request under this policy a member of staff must:

Be employed by the organisation , *and*

Have worked at the organisation continuously for 26 weeks at the date the application is made, *and*

Not normally have made another statutory request under this policy in the preceding 12 month period.

4. What flexible working means

The term “flexible working” describes any working arrangements where the number of hours worked or the time or place that work is undertaken vary from the standard practice of the organisation. This includes but is not limited to the following:

* A change to the number of hours worked per week (e.g. a reduction in hours to part time, perhaps working fewer days per week, or working fewer hours each day)
* Staggered hours: with different starting and finishing times
* Occasional or regular home-working
* Term-time working: working in term-time only with pay staggered over a 12 month period at a pro-rata rate. Annual leave is taken out of term-time and is paid at a pro-rata rate.
* A compressed working week: agreed hours are worked over fewer days per week
* Annualised hours: hours are worked out over a year, with some set hours/times and flexibility over other hours/times.
* Job-Sharing: sharing a job with another person.

5. The Process

5.1 Applications to work flexibly should be put in writing to the line manager using the Request for Flexible Working application form (see appendix A). This form asks for details of the flexible working arrangement requested, the reason for it, and an assessment of the likely impact of the request, and how this might be addressed.

5.2 On receipt of the written application, the line manager will:

Arrange an initial meeting with the employee as soon as possible (normally within ten working days) to discuss the request in depth. The employee may ask to be accompanied by a colleague or Trade Union representative. Should the employee be unable to attend the meeting, a further meeting will be arranged. However if s/he fails to attend again without good reason then the application will be considered to be withdrawn and the employee will be informed of this decision.

Consider the request objectively, looking at the benefits (for the organisation, and for the employee) of the requested change of working pattern and weighing these against any adverse impact.

5.3 The manager will then write to the employee, within 10 working days of the initial meeting (unless an extension is agreed) to advise that their decision is to:

* accept the request and agree a start date for the new arrangements *or*
* confirm a compromise agreed at the discussion, e.g. a temporary agreement to work flexibly, *or*
* reject the request, setting out clear business reasons for refusing the request, how these apply to the application and the details of the appeal process.

5.4 If the employee does not agree with her/his manager’s decision then s/he may appeal, in writing, to the next line manager - within ten working days of receipt of the written decision, outlining the process which has taken place and explaining the reasons for their appeal.

5.5 An appeal meeting will be held, within 10 working days of receipt of the letter of appeal (unless an extension is agreed). The employee may ask to be accompanied by a colleague or Trade Union representative. The outcome of this appeal meeting is final.

The employee has the right to be accompanied by an accredited Trade Union representative. Consideration will also be given to agreeing that an employee to be accompanied by a friend, not acting in a legal capacity.

6. Decisions

Decisions will be based on whether or not a request can be granted on business grounds. Not all working patterns or flexible working options will be suitable for all departments and the organisation’s ability to provide an effective service will be paramount.

When it is not possible for a flexible working request to be agreed, this must be for one or more of the following eight business reasons:

* Additional costs which are unacceptable to the organisation
* Detrimental effect on the ability to meet customer demand
* Inability to reorganise work among existing staff
* Inability to recruit new staff
* Detrimental impact on quality
* Detrimental impact on performance
* Insufficient work is available during the proposed times of work
* Planned structural changes

When applying one or more of the eight business reasons for rejecting a flexible working request, managers need to be careful not to unlawfully discriminate.

7. Timescales

All requests will be considered as quickly as possible. The whole process including any possible appeal against the decision must be conducted within a maximum period of 3 calendar months.

This timescale may be extended if necessary with the agreement of both parties, for example to allow for a trial period if there are some concerns as to whether any new arrangements will work.

8. Terms and Conditions

8.1 Where a successful flexible working request results in a reduction in working hours, the employee’s salary and benefits will be pro-rated to reflect the new working hours from the agreed start date of the new arrangements. In the case of the shorter working year, the pro-rated salary will be paid over a 12 month period. Annual leave will also be pro rated.

8.2 A successful application will result in a permanent change to the employee’s terms and conditions of employment. However, there may be occasions where it may be appropriate to agree a temporary change, e.g. an agreed trial period followed by a review.

9. Flexible Working - Frequently Asked Questions

9.1 What does handling requests in a ‘reasonable manner’ mean?

ACAS’s Code of Practice and Guidance on handling requests to work flexibly says that in order to act reasonably, a manager who receives a flexible working request should:

* arrange to discuss it with the employee as soon as possible
* consider the request objectively, looking at the benefits for the organisation and the employee of the requested change of working pattern and weighing these against any adverse impact for the organisation/other employees.
* Consider and decide on flexible working requests, including appeals, within three months of receipt of the request, unless an extension is agreed.

9.2 When can a manager reject a request for flexible working?

A flexible working request can only be rejected for one or more of the following eight business reasons:

* Additional costs which are unacceptable to the organisation
* Detrimental effect on the ability to meet customer demand
* Inability to reorganise work among existing staff
* Inability to recruit new staff
* Detrimental impact on quality
* Detrimental impact on performance
* Insufficient work is available during the proposed times of work
* Planned structural changes

Example: Suzi has asked to work from home for two days a week. She has recently started managing a team which has had serious performance and conduct problems. A key part of her role is to rebuild the team. Suzi’s manager considers the request, and concludes that she cannot agree to it at present, because Suzi working from home would mean that she was not available to address problems with performance or behaviour as they arose. Therefore she turns the request down because accepting it would have a detrimental impact on performance. She agrees to review Suzi’s request again in 12 months.

9.3 How can we avoid unlawful discrimination ?

When applying one or more of the eight business reasons for rejecting a flexible working request, managers need to be careful not to unlawfully discriminate.

Unlawful discrimination under the terms of the Equality Act 2010 applies to nine protected characteristics:

* Age
* Disability
* Gender Reassignment
* Marriage and Civil Partnership
* Pregnancy and Maternity
* Race
* Religion or Belief
* Sex
* Sexual Orientation

Direct discrimination takes place when an employer treats an employee in a manner that is less favourable than another employee because of one of the protected characteristics listed above.

Indirect discrimination occurs when an organisation's practices, policies or procedures have the effect of disadvantaging people who share certain protected characteristics

Indirect discrimination may not be unlawful if it can be proven by the employer that there is objective justification for it – e.g. a specific criteria or condition is required for the running of the business where no alternative options would suffice. NB no equivalent provision applies to direct discrimination.

Example: Golda, who has asked for a term-time only contract to help her to manage childcare responsibilities is told by her manager that her job as an accountant cannot be done effectively by someone working term-time only. Unless her manager can objectively justify this – e.g. by demonstrating that there will be a detrimental effect on the ability to meet customer demand - this may be indirect discrimination against Golda because of her sex, since more women than men are likely to combine paid employment with caring responsibilities.

Therefore, to avoid illegal discrimination, managers need to carefully consider requests for flexible working and, if they are unable to agree the request, be very clear about which of the eight business reasons listed at 9.2 objectively justifies refusing the request.

9.4 Can people with disabilities make flexible working requests to help them to manage their work?

The **Equality Act 2010** places an active duty on employers to make **“reasonable adjustments”** to accommodate the needs of disabled employees and enable them to do their jobs. What is considered a reasonable adjustment can vary and depends on a number of factors – including the nature of the disability, the size and resources of the employer, how practicable the requested changes are, and whether the requested change is what’s needed.

Allowing a member of staff to work flexibly may well constitute a reasonable adjustment and therefore, should be considered wherever possible.

Example: Joe has osteoarthritis and finds that he is in more pain early in the morning. He makes a flexible working request to stagger his working hours so that he can start work later in the day and finish later. Joe’s manager considers this request and agrees to it as a reasonable adjustment to support Joe and to allow him to continue to work effectively.

9.5 What if there are competing requests?

Employers may receive a number of requests from members of a team which, while they could individually be accepted, would create significant business problems if they were all agreed.

ACAS guidance says that requests should be considered in the order they are received. So, if Michael and Raj work for the same team, and Michael’s request to work flexibly was received first, their manager can consider Michael’s request first and, if she approves it, then consider Raj’s request, being mindful that the business context has now changed because Michael is working flexi-time, and taking this into account when considering the second request. The manager may want to have a discussion with both Michael and Raj to see if there is any room for compromise on their requests before she makes her decision.

Managers should consider each case on its merits, considering the business case and the possible impact of agreeing or refusing a request. However, it is important that managers are careful not to unintentionally discriminate against particular employees –e.g. a flexible working arrangement might be a *reasonable adjustment* for a disabled employee.

9.6 How does Job-Sharing work?

Job-sharing is quite different from part time work where the employee is individually responsible for the work. Job-sharers share all of the responsibilities of the post which they hold jointly. Pay and leave, are split pro rata to the hours each work.

The organisation’s ability to offer and continue a job share arrangement depends on finding a suitable job-share partner through normal recruitment processes.

Where a job share is requested, the manager may agree, in principle, to a post being suitable for a job-share but advertising for, and recruiting, a suitable job-share partner is likely to take longer than the usual 3 month time period for reaching a decision on a flexible working request, and no such request can be implemented unless and until a job-share partner is recruited and starts in post.

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Appendix A

**Flexible Working Application Form**

Before completing this request, please read the Flexible Working and Leave Policy which can be accessed at [insert detail]

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| 1. **Flexible Working Request** *(to be completed by the employee)*
 |
| Name: |  |
| Job Title/Grade: |  |
| Department: |  |
| Contact Details: |  |
| Line Manager: |  |
| Employment Start Date |  |
| Outline your current working arrangements including any flexible working arrangements*:*  |
|  .[ ]  Part-time | .[ ]  Full-time |
| Hours and days of work: |  |
| Have you made a previous request for flexible working?  | .[ ]  Yes.[ ]  No |
| Date of request: | *(only one application can be made within a 12 month period)* |

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| --- |
| 1. **Type of Flexible Working/Leave Request** *(Please tick as many as appropriate):*
 |
| a) Part time working *(less than 35 hours per week)* | [ ]  |
| b)Term time only working | [ ]  |
| c) Change in working pattern | [ ] . |
| d) Job share | [ ] . |
| e) Homeworking  | [ ] . |
| f) Other (please detail):  |

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| 1. **Details of Request** *(please describe the full details of proposed changes that you are seeking, including the hours of work, the work pattern you are requesting to work and the location you are requesting to work):*
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| --- |
| 1. **Proposed effective date(s)** (Please enter dates below):
 |
| From: |  |
| Until: |  |
| Review period  |  |

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| --- |
| 1. **Reason for Request** *(Please tick as many as appropriate: this is optional):*
 |
| a) Childcare arrangements  | .[ ]  |
| b) Carer responsibilities  | .[ ]  |
| c) Disability or health *(please ensure that you have contacted your HR Advisor as there may be a need to consider reasonable adjustments independent of this request in line with Equality Act 2010)* | .[ ]  |
| d) Return from maternity/adoption leave | .[ ]  |
| e) To pursue personal interests | .[ ]  |
| f) Change in personal circumstances: | .[ ]  |
| g) Education/Training Programme | .[ ]  |
| h) Other: *(Please specify):*  | .[ ]  |

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| 1. **Impact of Proposed Changes** *(Please consider and answer the following questions in full):*
 |
| What effect if any will the proposed changes have on: |
| a) your work and service |  |
| b) your department: |  |
| c) your colleagues and other members of your team |  |
| d) your customers  |  |
| Do you have any suggestions for how the impact of the requested flexible working arrangement(s) can be addressed? |
| What advantages/ disadvantages (including any additional costs) does this requested flexible working arrangement involve? |
| Do you have any other comments that you wish to have taken into consideration? |

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| 1. **Employee declaration and signature**
 |
| * I declare that the information I have provided is accurate
* I acknowledge that the organisation may refuse my request for a flexible working arrangement on reasonable operational grounds
* I acknowledge that this request is conditional upon and subject to approval of my line manager
* If approved I understand that a review may be put in place to ensure the operational needs of the department can continue to accommodate the flexible working arrangement.
 |
| Employee’s signature: | Date:  |
| Attachment to e-mail will constitute signatory authorisation |

**Once you have completed this application form you must submit to the relevant line manager**

|  |  |
| --- | --- |
| Line Manager signature to acknowledge receipt:  | Date:  |