

FLEXIBLE WORKING POLICY

Issued by – Human Resources
Updated – April 2024



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FLEXIBLE WORKING POLICY

INTRODUCTION

This policy was originally agreed at the Council's Human Resources Committee on 23rd July 2007 and was most recently updated in April 2024, principally to incorporate changes made as a result of the Flexible Working Regulations Legislation and to reflect changes made recently to other Council policies and procedures, namely the Remote Working Policy and Flexible Working Scheme.

Its aim is to encourage staff to consider flexible working arrangements, the Council recognises that a better work-life balance can improve employee motivation, performance and productivity, and reduce stress. Therefore, the Council wants to support its employees to achieve a better balance between work and other priorities, such as caring responsibilities, leisure activities, further learning and other interests.

The Council is committed to agreeing flexible working arrangements, provided that the needs and objectives of both the Council and the employee are met.

It is the Council's policy to encourage open discussion with employees. An employee that thinks they may benefit from flexible working is encouraged to contact their manager to arrange an informal discussion to talk about the options.

This procedure follows the ACAS code of practice on flexible working requests and guidance and Government guidance.

Tendring District Council is committed to a policy of equality of opportunity and takes steps to ensure that all employees are not discriminated against either directly or indirectly on the grounds of gender, sex, age, disability, marital status, sexual orientation, creed/religion, ethnic or national origin. This policy will be applied to ensure that employees are given equality of opportunity.

This policy applies to all employees of Tendring District Council.

In the application of this procedure and in accordance with the Equality Act 2010, Tendring District Council will make any reasonable adjustments to cater for employees who have a disability.

All records, relating to a request for flexible working, will be treated as confidential and kept in accordance with the Data Protection Act 2018, which gives individuals the right to request and have access to certain personal data.

RIGHTS AND RESPONSIBILITIES

Employees' rights:

- To apply to work flexibly
- To have their application considered properly in accordance with the set procedure and refused only where there are clear business grounds for doing so
- To have a companion when meeting their line manager to discuss the application (*normally a trade union official or work colleague*)
- Where an application is refused to have a written explanation of the reasons
- To appeal against the decision to refuse an application in accordance with the Appeals Policy.

Employees' responsibilities and best practice

- To provide a carefully thought-out application
- To ensure their application is valid by checking that all the eligibility criteria are met and that they have provided all the necessary information
- To ensure the application is made well in advance of when they want it to take effect
- To arrive at meetings on time and to be prepared to discuss their application in an open and constructive manner
- Where necessary be prepared to be flexible themselves to reach an agreement with Tendring District Council.

The rights of Tendring District Council

- To reject an application when the desired working pattern cannot be accommodated within the needs of the organisation
- To seek the employee's agreement to extend timescales where it is appropriate
- To not consider an application in certain circumstances. For example, if an application is incomplete and the employee refuses to complete the application.

Tendring District Council's responsibilities and best practice

- To consider requests properly in accordance with the set procedure
- To ensure they adhere to the time limits contained within 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 service issue 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
- To give employees the right of appeal in accordance with the Appeals Policy.

WHAT IS FLEXIBLE WORKING?

Flexible working is any type of working arrangement that gives some degree of flexibility on how long, where and when an employee works. There are many different forms of flexible working that cover the way our working hours are organised during the day, week or year. Flexible working can describe the place we work such as home working or the type of contract we are on, such as a temporary contract.

Common kinds of flexible working include:

- **Part time working** covers any arrangement where an employee is contracted to work anything less than typical full time hours for the type of work in question. For example, an employee might start work later and finish earlier in order to take care of children before or after school. The Council believes that all posts will be available on a part-time basis, except where a critical examination by the management team proves this to be impracticable.
- **Flexi-time** allows an employee to choose, within certain limits, when to begin and end work. Employees may be required to work within essential periods but outside 'core times'. This means they often get flexibility in how they work their hours. Please refer to the Council's Flexible Working Hours Scheme.
- **Job Sharing** is an arrangement where a full-time post is divided into two part-time roles. 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 Council. 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.

- **Home-working** is when an employee regularly carries out all, or part of their duties from home rather than the Council's premises. The Council has adopted a Remote Working Policy which outlines how the Council has moved away from a traditional model of working, whereby everyone is located in the office. It is working towards a hybrid working model, where employees spend some of their time working in the office and some of their time working remotely at home. However, there may be certain circumstances where an employee would like to request to work full time from home.
- **Term Time Working** is when an employee takes paid or unpaid leave during school holidays.
- **Staggered hours** is when employees in the same workplace have different start, finish and break times – often as a way of covering longer opening hours.
- **Annualised hours** is a system which 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.
- **Compressed working hours** is when employees work their total agreed hours over fewer working days – for example, a five day working week is compressed into four days.
- **Shift Working** is widespread in service areas which must run on a 24 hour cycle, such as Careline and emergency services.

THE NEEDS OF THE ORGANISATION

The Council is committed to providing a range of appropriate working patterns. However, employees and the Council 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 Council 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 task 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.

WHO CAN APPLY FOR FLEXIBLE WORKING

A statutory right to request flexible working is a day one right, meaning, all employees, regardless of their length of service are entitled to submit a request for flexible working. Agency workers and Casual workers are not eligible.

All eligible employees are entitled to submit two flexible working requests in a 12 month period; although only one 'live' request is allowed at a time. However, an employee is entitled to additional requests if they relate to a statutory entitlement, for example the Equality Act 2010 right to request reasonable adjustments.

A request will stay 'live' until any of the following happen:

- your line manager makes a decision
- you withdraw your request
- you and your line manager agree an outcome
- it's been 2 months since the date of your request.

HOW MUST A FLEXIBLE WORKING REQUEST BE MADE

All flexible working requests must be made in writing, either by email or letter and be sent to the employee's line manager. Any request must include:

- The date of the application
- The changes that the employee is seeking to their terms and conditions
- The date from which the employee would like the proposed change to come into effect
- Whether this is a statutory or non-statutory request
- Whether a previous application for flexible working has been made
- The dates of any previous applications.

If the employee is making the request in relation to the Equality Act 2010, e.g. as a reasonable adjustment relating to a disability, this should be made clear in the application.

If the application does not contain all of the required information the line manager or a member of the Human Resources team will explain to the employee what additional or amended information they need to provide and ask the employee to resubmit the request.

The employee may prefer to use the Flexible Working Request form, as found in Appendix A. **However, it is not compulsory to use this form.**

CONSIDERING A REQUEST FOR FLEXIBLE WORKING

Upon receiving a written request for flexible working the line manager or a member of the Human Resources team will usually seek to arrange a meeting with the employee to:

- Discuss the request
- Find out more about the proposed working arrangements
- Consider how it could be of benefit to both the employee and the Council.

If a meeting is arranged it will be held within 28 days of the Council receiving the request. The time limit may be extended with the agreement of both the employee and the line manager.

The employee will be given advance notice of the time, date and place of the meeting. If the initial date is problematic then one further date will be proposed. If a face to face meeting is difficult to arrange then, if agreed by the employee and the line manager, the meeting may be held by video conferencing.

At the meeting the employee may, if they wish, be accompanied by a colleague or a trade union representative.

If the employee fails to attend the meeting and then fails to attend the rearranged meeting without good reason, their application will be deemed to have been withdrawn.

This meeting is not required if the line manager agrees to the terms of the application and notifies the employee accordingly within 28 days of receiving the application. This time limit may be extended with the agreement of both the employee and the manager.

RESPONDING TO A FLEXIBLE WORKING REQUEST

The line manager will consider the proposed flexible working arrangements, looking at the potential benefits and adverse effects to the employee and to the Council in implementing the proposed changes.

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.

The employee will be informed in writing of the manager's decision as soon as reasonably practicable, but no later than 14 days after the meeting.

The request may be granted in full, in part or refused. The line manager may propose a modified version of the request. The request may be granted on a temporary basis, or the employee may be asked to try the flexible arrangements out for a trial period. If the request is agreed then the employee will be sent a confirmation letter which will include details of the new arrangements. The employee should contact their line manager or a member of the Human Resources team within 14 days if they wish to discuss the new arrangements further, or have any concerns.

RIGHT TO APPEAL

The employee has the right to appeal the decision if their request is refused or is only agreed in part.

The employee may lodge an appeal within 14 days of being notified of a decision on their application. This should be done in writing and clearly state the grounds on which they are appealing and ensure the letter is dated.

The appeal should be heard within 14 days of receipt of the employee's written appeal. The employee must be allowed to be accompanied by either a trade union official or a work colleague.

The line manager must notify the employee of the decision on the appeal within 14 days after the date of the meeting. The notification will either:

1. Uphold the appeal, specify the agreed variation and start date, or

2. Dismiss the appeal, stating the grounds for the decision and contain a sufficient explanation for the refusal.

The line manager and the employee can agree to extend any of these time limits. The line manager must record this agreement in writing, specifying the period to which the extension relates and the date on which the extension is to end. A copy of this must be sent to the employee.

TRIALLING NEW WORKING ARRANGEMENTS

Where there is some uncertainty about whether the flexible working arrangements are practicable for an employee and/or the Council a trial period may be agreed. If a trial period is arranged the Council will allow sufficient time for an employee and their line manager to implement and become used to the new working practices before taking any decisions on the viability of a new arrangement.

ON WHAT GROUNDS CAN APPLICANTS BE REFUSED

The Council might refuse an application for flexible working arrangements for the following reasons:

- Burden of additional costs
- Detrimental effect on the ability to meet the demand of service users
- Inability to reorganise work amongst existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the period the employee proposes to work
- Planned structural changes

VARYING AN EMPLOYEE'S CONTRACT

Where flexible working practices are agreed as a permanent change, a variation will need to be made to the employee's contract of employment. A new contract of employment or letter confirming the changes to the contract of employment will be sent to the employee before the commencement date of the change to the employee's working pattern.

In certain circumstances, the line manager and employee may agree that the flexible working practices are only a temporary change. Before the temporary flexible working arrangements commence, the duration of the temporary change must be agreed by both parties, and a letter confirming the temporary changes to the contract of employment must be sent to the employee. At the end of the temporary change, the employee will revert to their substantive working practices, unless an extension has been agreed by all parties. Any temporary change must not exceed two years. The employee should either revert to their substantive working practices or, if all parties agree, the arrangement should be made permanent.

If the employee has any questions or concerns about the new contract of employment, they should contact their line manager or a member of the Human Resources team to discuss the matter further.

Where there is some uncertainty about whether the flexible working arrangement is practicable for an employee and/or the organisation a trial period may be agreed.

If a trial period is arranged the organisation will allow sufficient time for an employee and their manager to implement and become used to the new working practices before taking any decisions on the viability of a new arrangement. The initial period will normally be 6 months, with the possibility of a further extension of the trial period for a maximum of 12 months. At the end of the agreed trial period, the arrangement will need to be formalised and as outlined above, a permanent variation will need to be made to the employee's contract of employment.

Where a trial period has been arranged, the Council will provide the employee with a document that details their new working pattern and makes it clear that it is only a temporary variation to the terms of the employee's contract. The employee will be informed in writing of the start and end dates of the trial period (*although the Council may reduce or lengthen the trial period where necessary with the agreement of the employee*). The Council will reserve the right, at the end of the agreed trial period, to require the employee to revert to their previous working arrangement.

WHAT AN EMPLOYEE CAN DO IF TENDRING DISTRICT COUNCIL REFUSES AN APPLICATION FOR FLEXIBLE WORKING

Wherever possible it is better to reach agreement on flexible working within the workplace. There are a number of options available if the line designated manager refuses the application at the appeal stage of the procedure including:

- Informal discussions with the line manager – there may be some simple misunderstanding of the procedure or facts which can be resolved by an informal route
- Use of the Tendring District Council grievance procedure
- Assistance from a third party such as a trade union representative
- Contact with Human Resources to take further advice.

USEFUL CONTACTS FOR FURTHER INFORMATION

ACAS (Advisory, Conciliation and Arbitration Service)

East of England

Ross House , Kempson Way, Suffolk Business Park, Bury St Edmunds, SUFFOLK, IP32 7AR

Helpline: 08457 47 47 47

Website: www.acas.org.uk

Government website

Information and guidance on Flexible Working

Guidance and Forms can be downloaded from [Right to request flexible working: application form - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/right-to-request-flexible-working)

Appendix A



Department for
Business & Trade

The right to request flexible working **Form FW(A): Flexible working application form**

Note to the employee

You can use this form to make an application to work flexibly under the right provided in law to eligible employees. Before completing this form, read the guidance on the right to request flexible working on GOV.UK, and check that you are eligible to make a request.

You should note that under the right it may take up to 2 months for your employer to consider a request and possibly longer where you have agreed to a longer decision period with your employer. 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.

It will help your employer 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.

Once you have completed the form, you should immediately forward it to your employer (*you might want to keep a copy for your own records*). If the request is granted, this will be a permanent change to your terms and conditions unless otherwise agreed.

Note to the employer

This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications in a reasonable manner. You have two months after the day you received this application in which to decide whether to grant the request. This period can be extended if you agree to a longer deadline with the employee; any such agreement must be made either within the period in which the decision is to be made or in the two months immediately following the end of that deadline.

You should confirm receipt of this application using the attached confirmation slip.

Forms accompanying the guidance have been provided for you to respond to this application.

1. Personal Details

Name:

Staff or payroll number:

Manager:

National Insurance No:

To the employer

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided under section 80F of the Employment Rights Act 1996. I confirm I meet each of the eligibility criteria as follows:

- I have not made more than two requests to work flexibly under this right during the past 12 months.
- I do not currently have a 'live' request.

Date of any previous requests to work flexibly under this right:

If you are not sure whether you meet any of the criteria, information can be found on Gov.UK.

If you are unable to tick all of the relevant boxes, then you do not qualify to make a request to work flexibly under the statutory procedure. This does not mean that your request may not be considered, but you will have to explore this separately with your employer. Many employers offer flexible working to their staff as best practice.

2a. Describe your current working pattern and/or the location of your work (days/hours/times worked/place of work):**2b. Describe the working pattern and/or the location you would like to work in future (days/hours/times worked/place of work):****2c. I would like this working pattern to commence from:**

Date:

Name:

Date:

NOW PASS THIS APPLICATION TO YOUR EMPLOYER



- - - - -
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 notify you of my decision on this application within two months of this date, unless we agree a longer deadline for this decision.

From: