

# Flexible Working Policy

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## **1.0 Policy Statement**

- 1.1 The City of Wolverhampton Council is committed to adopting a flexible approach to working arrangements and recognises the benefits that flexible working can have for both employees and the organisation as a whole.
- 1.2 The Council recognises that flexible working is an important tool to support improved individual and business performance through greater diversity and increased levels of engagement and commitment from employees at all levels. The council will therefore seek to provide a choice to employees within the framework of the policy.
- 1.3 This policy sets out the council's approach to flexible working. Some employees have the legal right to request flexible working; however, the policy applies to all in-scope employees who meet the eligibility criteria.
- 1.4 The Council will review this policy and procedure from time to time in line with statutory procedures and best practice.

## **2.0 Scope**

- 2.1 This policy and procedure applies to all employees of the Council including Chief Officers and employees based in schools i.e. Teaching Assistants who are members of the Local Government Pension Scheme fund. It excludes Teachers who will be covered by the relevant Schools' Policies and Procedures.

## **3.0 Principles**

- 3.1 The Council is committed to the following principles which underpin this policy:
  - The Council's flexible working policy provides a framework within which employees and managers can explore flexible working arrangements
  - Flexible working requests should be considered fairly and equitably and no employee will suffer a detriment for making a request
  - The appropriateness of any specific flexible working arrangements will depend on a variety of factors such as the nature of the job, the workplace and the way in which duties are organised
  - The intention of flexible working arrangements should be to accommodate both service delivery needs and the employee's need for work-life balance. Work-life balance is the ability to combine work and non-work responsibilities without unnecessary detriment to either

- There are a variety of flexible working arrangements covering hours, times and place of work; these may include the following but this list is not exhaustive:
  - Reduced hours working
  - Term-time only working
  - Annualised hours
  - Compressed hours working (e.g. 9 day fortnight)
  - Agile working (see 7.1 below)
  - Home working (see 7.2 below)
  - Job sharing (see 7.3 below)
  - Career breaks (see 7.4 below).

The arrangement can be temporary or permanent and can be a combination of different arrangements, e.g. part-time home working.

### **The right to request flexible working**

- 3.2 The Council has a legal duty to give due consideration to flexible working requests. The statutory right to make a flexible working application applies from the employee's first day of employment.

Employees can make two statutory flexible working requests within any 12 month period.

## **4.0 Process and Procedure**

In essence flexible working involves employers making adjustments to their preferred working arrangements to accommodate their employees' requests. Please see attached process chart.

### **Requesting flexible working**

- 4.1 The employee should make the request for flexible working in writing to their manager, who may wish to discuss the matter with People Services. The request can be via the [standard pro-forma](#) or via a letter which covers the following points:
- That it is a statutory request for flexible working
  - The date of any previous application to work flexibly
  - The change requested to their terms and conditions of employment in relation to their hours, times and/or place of work
  - The date the applicant would like the arrangement to commence
  - Whether the arrangement would be temporary (and for how long) or permanent

An employee may have only one live request for flexible working at any one time. Once a request has been made, it remains live until any of the following occur:

- a decision about the request is made by the employer
- the request is withdrawn
- an outcome is mutually agreed
- a request continues to be live during any appeal or any extension to the time limit period that an employer and employee may have agreed.

### **Responding to an application for flexible working**

- 4.2 Managers are encouraged to approach requests for flexible working with an open mind. With careful planning flexible working can improve service delivery, employee motivation and commitment.

The process and key points to take into account when considering a request for flexible working are:

#### **If the manager agrees to the request:**

- they must notify the employee within 28 days of receiving the request. If the arrangement is agreed the manager must set out the agreement and date from when it will take effect and its duration, if temporary.

#### **If the manager does not agree, is undecided or needs further information:**

- they must meet with the employee to discuss the request within 28 days of it being made. Managers must not reject a request without first meeting with the employee. During the meeting, the manager and the employee should carefully consider and discuss any alternative flexible working options that may be available and suitable for both the business and the employee.
- the employee has the right to be accompanied at the meeting by a trade union representative or fellow colleague.
- after the meeting the manager must confirm the outcome in writing within 14 days. If the request is refused, the confirmation of outcome should confirm the grounds for refusal, explain why they apply in the circumstances and set out the appeal procedure.
- an employee has the right not to be subjected to any detriment for a reason connected with the right to request to work flexibly. A dismissal for such a reason will be automatically unfair.

- 4.3 The only valid reasons for rejecting a request are as follows:

- The burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to re-organise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality

- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes.

### **The Appeals Process**

- 4.4 If the request has been refused, the employee has 14 days after the date that they were notified of the decision to appeal to their Director/ Deputy Director in writing, setting out the grounds of appeal.

If the Director/ Deputy Director decides that the request is acceptable, the employee must be informed, within 14 days of the appeal, of the variation to their contract and the date it is to start.

If the Director/ Deputy Director does not initially accept the request, an appeal meeting must be held within 14 days of receipt of the employee's appeal letter. This will be at a mutually convenient time and place, confirmed in writing stating the employee has the right to be accompanied.

The Director/ Deputy Director must notify the employee of his/her decision within 14 days of the date of the appeal meeting.

If the request is accepted the employee must be informed of the variation agreed to, the date on which it is to take effect and the duration, if temporary.

If the request is refused the Director/ Deputy Director must set out the grounds for the refusal, explaining why they apply.

There will be no further recourse to appeal. If the employee falls within the groups where there is a legal duty to consider the request as outlined under section 3.2 above, the employee can complain to an Employment Tribunal if the employer has:

- Failed to hold the initial meeting or appeal meeting
- Failed to provide notice of a decision in accordance with the timescale
- Rejected the application based on incorrect facts (a claim for this reason can only be brought after the application has been rejected on appeal).

### **Extension to time limits**

- 4.5 Time limits set out in this procedure can be extended, if the manager and employee agree, for instance to allow more time to explore the implications of a flexible working pattern. The extension must be confirmed in writing to the employee. If the manager is on sick or annual leave, the time limits will apply from when they return to work.

### **Withdrawing an application**

- 4.6 If the employee verbally withdraws their application, the manager should write to them to confirm this. Where the employee fails to meet their responsibilities the manager may also treat an application as withdrawn.

This will apply when an employee fails to attend, without reasonable cause, a meeting more than once or unreasonably refuses to provide the manager with information required to assess whether the working arrangement can be agreed to.

## **5.0 Terms and conditions of employment for employees subject to a flexible working arrangement**

As a basic principle, all terms and conditions will be applied pro-rata to the number of hours worked.

### **Additional Work**

- 5.1 There is no restriction on holding more than one reduced hours post, providing there is no conflict of interest between the posts, and feasibility has been considered in terms of the standard of service provision and the health, safety and welfare of the employees concerned. As with any recruitment situation, it is also imperative that equality principles have been adhered to.

### **Training**

- 5.2 Employees working reduced hours should have access to training and development opportunities and provisions equal to that of full-time employees. Thus, when on training courses outside their daily contracted hours, they should be paid on the same basis as full-time employees.

### **Returning from maternity leave**

- 5.3 Women returning from maternity leave have the right to return to work on reduced hours for up to thirteen weeks. Women considering working reduced hours after this should start negotiations with their manager as soon as possible after returning to work.

### **Employment Protection Rights**

- 5.4 Reduced hours workers have the same employment protection rights as full-time employees. These rights, include the right to claim unfair dismissal, maternity rights and redundancy pay rights and apply once an employee has the appropriate continuous local government qualifying service.

### **Employees Nearing Retirement**

- 5.5 Employees nearing retirement who are considering making a request to work reduced hours are advised to discuss the effect of this on their pension entitlement.

## 6.0 Implementing a flexible working arrangement

Final details should be negotiated with the employee, as necessary, and then set out in writing, with a copy for the employee to sign and return. All relevant HR records should be amended accordingly.

Commencement of the reduced hours working arrangement can be whenever it is mutually convenient, taking into account:

- Service delivery needs
- The employee's personal circumstances
- Arrangements for the remaining hours, e.g. the anticipated period of recruitment, if applicable.

It is reasonable that flexible working should start within three months of approval for the arrangement being given.

## 7.0 Types of flexible working arrangements

### 7.1 Agile Working

The council offer an agile approach in the workplace that provides employees with an option on how and where they carry out their role and provides an opportunity for the organisation to optimise resources that will ensure that the needs of the service user are priority whilst contributing to efficient delivery of services.

Agile working does not negate or supersede the flexible working policy as it does not affect the arrangements outlined in 3.1. Unlike other flexible working arrangements detailed in this policy, agile working does not alter an employee's terms and conditions of employment in relation to working hours and location, but rather offers flexibility over where the work is carried out.

A decision will be made regarding an employee's role and which work style is appropriate for this role

Please refer to the [Agile Working Guidance](#) for further guidance or advice can be sought from People Services.

### 7.2 Home Working

Home working usually refer to a situation where an employee works at home and this arrangement can be full or part-time, permanent or temporary.

There are various occasions when the opportunity to consider home and/or mobile working may occur:

- (a) When seeking approval to fill a vacancy
- (b) In response to a particular organisational requirement



- (c) At the point of recruitment and selection
- (d) When a current employee requests homeworking.

The first two would be management-led, whereas (c) and (d) would be employee-led. However, home working cannot be imposed on any employee without proper negotiation and their full agreement.

Having considered and agreed any arrangement and having consulted the relevant trade union, a written agreement covering all home working arrangements should be signed by both the manager and the employee.

It is recommended that any arrangement should be reviewed initially after two months and then on a six-monthly basis, with an option to give notice to terminate the arrangement on either side if it is not working satisfactorily.

Advice can be sought from People Services.

### 7.3 Job Share

The council gives employees the right to job-share a full-time post. The policy is applicable to all posts below Senior Management level, unless the post has been formally exempt (see below). Senior Management posts are automatically exempt from the scheme.

Job-sharing occurs when two people divide one full-time job between them (whether or not both halves of the post are filled). Each sharer does a proportion of the hours and work (usually, but not necessarily, half). Pay and other benefits, such as holidays, are pro-rated to the hours worked.

If one half of a job share post subsequently resigns then their duties and hours will automatically be offered to their job share partner.

#### **Responding to a request to job share**

The following factors need to be considered when an application for job-sharing is received:

Does the job involve:

- Two people jointly undertaking the whole job, or
- The job being split into two separate components with the duties also being apportioned between the two sharers. (It is not necessary to rewrite the job description, but it is essential for the manager to agree with the job-sharers which aspects each will carry out)
- The hours of work and work pattern which will apply

- Can the existing employee commence working the reduced hours while the vacant half is advertised, or is this dependent on the other sharer being ready to start?
- The handover arrangements that will apply.

### **Job Share appeals process**

Where applications to job share are refused and the refusal has been upheld by the Director/ Deputy Director, the employee should be made aware of their right of appeal.

The employee has 14 days after the date that they were notified of the decision to appeal to their Director/ Deputy Director in writing, setting out the grounds of appeal.

The reason for the initial decision will need to be fully justified by the service group and verified by the Director/ Deputy Director and the Head of People Services.

If the Director/ Deputy Director and Head of People Services do not initially accept the request, an appeal meeting should be held within 14 days of receipt of the employee's appeal letter. This will be at a mutually convenient time and place, confirmed in writing, and the employee has the right to be accompanied.

If the Director/ Deputy Director and Head of People Services decide that the request is acceptable, the employee must be informed within 14 days of the appeal meeting.

If the request is refused the Director/ Deputy Director must notify the employee of their decision within 14 days of the date of the appeal meeting and set out the grounds for the refusal, explaining why they apply.

Following this decision a Record of Exemption (Appendix 1) will be attached to the post in question and will be kept on file in People Services. This will provide a formal record of that post's exemption from the job-share policy, should the post become vacant and re-advertised in future.

Service Groups may apply for a Record of Exemption for a post prior to advertising, if it is felt that job-sharing the post would not be a feasible option.

## **7.4 Career Breaks scheme**

The career break scheme allows employees to resign from their post for up to two years, and then return to a post on the same grade and spinal column point as they left.

The aim of the Retainer Scheme is two-fold:

- To attract and retain skilled and experienced staff in areas where there are recruitment and retention difficulties.

- To provide an opportunity for employees of the council to take a career break for personal reasons (e.g. childcare, elderly relative care, or possibly for reasons such as study leave) without irretrievably damaging their future career prospects.

Return to the original post or an identical one is not guaranteed. The employee may return at any time during the scheme, providing they give three months' notice of their intention to return.

If an appropriate post is not available on return, a suitable alternative or a supernumerary role will be offered for a period of 12 weeks whilst the employee is placed on the redeployment register. Funding for the Supernumerary post will be provided by the employing service.

If no post is available at the end of the 12 weeks, the employee's contract would be terminated.

It is for this reason that only staff in areas of recruitment and retention difficulties should be allowed onto the scheme.

### **Applications to the Scheme**

Any employee who is interested in the Scheme should complete an application form and give it to their manager, who will consider the request in consultation with the appropriate Director/ Deputy Director.

- If the Service Group does not agree to release the applicant, then they should be informed of the decision and the reasons for it.
- If the application is approved, People Services will write to the applicant confirming that they have been accepted onto the Scheme and the employee should give the normal period of notice for resigning from their job.

### **Obligations under the Scheme**

Employees must not undertake any other continuous paid employment during their career break although casual, temporary or out-of-office hours working may be acceptable. In such circumstances, the employee should inform People Services, who will consider each case on its merits.

### **Procedure for Return to Work**

Employees must give three months' notice in writing of their intention to return to work, to give management time to arrange suitable employment.

The employing service is responsible for trying to place the employee in a suitable post at their original grade.

## **Other Conditions**

Time spent on the Scheme will not count towards service related benefits, but participants will retain previous service for certain entitlements, including: sick pay, annual leave, period of notice, occupational maternity pay, local right of appeal to the council for unfair dismissal, and entitlement to redundancy pay.

Previous service will not count for the following: the right to claim unfair dismissal at an Employment Tribunal and calculation of statutory maternity pay. That is, service will only count from when the employee leaves the Scheme and returns to work.

## **8.0 Roles and Responsibilities**

### **8.1 Roles and Responsibilities of Employees**

Employees have a responsibility to comply with the relevant procedures. Employees should work with their manager and colleagues to ensure that where appropriate their requested change to working arrangements is as smooth as possible.

### **8.2 Roles and Responsibilities of Managers**

Managers have a responsibility to consider employee's applications sympathetically and with due regard to the business needs of the service. Discuss with employees possible options or alternatives and act promptly to any request including the completion of associated paperwork.

### **8.3 Roles and Responsibilities of People Services**

People Services will advise and support managers and employees when considering options for flexible working and in any issues arising from the implementation of this policy.

### **8.4 Roles and responsibilities of the Head of People Services**

In consultation with the recognised Trade Unions, the Head of People Services will exercise delegated authority for and be responsible for the on-going review and updating of this Policy to ensure compliance with changes in statutory requirements and operational delivery, including responsibility for identifying the appropriate process for the regular evaluation of the effectiveness of this policy. Any fundamental changes to this Policy will be approved by an Individual Executive Decision Notice (IEDN).

### **8.5 Roles and responsibilities of Trade Unions**

Any review and revisions of this policy will be undertaken by People Services in consultation with the Council's recognised trade unions.

## **9.0 Monitoring and review**

This policy and procedure will be reviewed and updated annually and will be available to managers and employees via the HR intranet.

## **10.0 Links to Other Policies and Procedures**

Recruitment and Selection  
Leave Entitlement  
Redundancy  
Redeployment  
Flexible Retirement  
Equal Opportunities  
Health and Safety  
Agile Working Protocol

## **11.0 Equality**

- 11.1 An Equality Analysis is being undertaken on this policy and procedure.
- 11.2 The Council has a duty to monitor the application of the policy in relation to protected characteristics under the Equality Act 2010. This is reported annually in the Council's Equality Monitoring Report (Employment).
- 11.3 If any aspect of this policy or procedure causes difficulty on account of an employee's disability or because English is not their first language, they should contact People Services, and appropriate arrangements will be made.

**CITY OF WOLVERHAMPTON COUNCIL  
JOB SHARE POLICY**

**RECORD OF EXEMPTION**

Service Group.....

Section.....

Job Title.....

Grade.....

Number of Jobs for which exemption applicable.....

Reasons for Exemption:

To be completed by Manager

Signed: ..... Date: .....

To be completed by Director/Deputy Director:

Signed: ..... Date: .....

If the decision to exempt is upheld:

To be completed by Head of People Services

Signed: ..... Date: .....

To be completed by Director/ Deputy Director

Signed: ..... Date: .....

**Request for Flexible working Process Chart**

