

## **CHIEF EXECUTIVE'S OFFICE**

### **REPORT OF THE HEAD OF HUMAN RESOURCES – S. REES**

**20<sup>th</sup> October 2014**

#### **SECTION A - MATTER FOR DECISION**

**WARDS AFFECTED: All**

#### **FLEXIBLE WORKING POLICY AND PROCEDURE**

##### **1. Purpose of Report**

The purpose of this report is to seek Members approval to adopt an HR policy and procedure in relation Flexible Working.

##### **2. Background Information**

2.1 Currently the Council has eight separate policies that relate to flexible working. These eight documents will be replaced by one Flexible Working Policy to make it more accessible and to ensure consistency. The development has also taken into account the ACAS document “The right to request flexible working: an ACAS guide”.

2.2. The ACAS Guidance states that a policy for handling requests to work flexibly should include the points below and these have been incorporated into the Policy:-

- How employees should make the application, including who the application should be made to and what should be covered in the application;
- A statement that the employer will consider the request and will only reject if for one of the eight business reasons (shown in the Manager's Guidance document)

- Who can accompany the employee at any meeting regarding the request;
- Arrangements for appeals
- Time limits on dealing with requests

2.3 The law changed on 30<sup>th</sup> June 2014 to allow any employee who has worked for their employer for 26 weeks continuously to make an application for flexible working whereas previously, the right only applied to parents of children under 17 or 18 in the case of parents of disabled children or to those caring for an adult. However, the Council has always welcomed applications from all employees with the qualifying service, regardless of whether they had caring responsibilities.

### **3. Process for Creating the New Policy.**

3.1. This Policy was developed by HR in partnership with trade union representatives from UNISON and GMB and has been approved by the Local Government Services Forum.

### **4. Recommendation**

4.1 It is **RECOMMENDED** that Members approve the Flexible Working Policy and Procedure attached as **Appendix 1**.

### **FOR DECISION**

### **5. Officer Contact**

For further information on this report item, please contact:  
Diane Hopkins, Principal HR Manager on Ext 3012 or email  
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or

Sheenagh Rees, Head of Human Resources, on Ext 3315 or email  
[s.rees5@npt.gov.uk](mailto:s.rees5@npt.gov.uk)

6. **Appendix**  
Appendix 1 – Flexible Working Policy and Guidance for Managers on Flexible Working Requests
  
7. **Background Papers**  
None

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL  
CYNGOR BWRDEISTREF SIROL CASTELL NEDD PORT TALBOT**

**FLEXIBLE WORKING  
POLICY AND PROCEDURE**

**JULY 2014**

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## 1.0 Roles and Responsibilities

<b>Employee</b>	Make flexible working request in writing to their line manager. Be aware that reasonable notice is required. Be flexible in their approach to working patterns and the needs of the service.
<b>Line Manager</b>	Make reasonable decisions based on the needs of the service and then to work with the employee to achieve a successful outcome, ensuring regular communication with the employee.
<b>Trade Unions</b>	To provide advice and support to their member/s.
<b>Head of HR</b>	To deal with Appeals arising from refusal to approve Flexible Working requests.
<b>HR Resourcing Team</b>	Administer to successful requests and make necessary contractual and payroll amendments.

## 2.0 Introduction

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.

Flexible working can improve the organisation's efficiency, productivity and competitiveness through improving staff motivation and retention, reducing absence, attracting new talent, promoting work-life balance and reducing employee stress.

There are various forms of flexible working including:

- Time off for dependants
- Compressed hours working
- Term-time working
- Parental leave
- Job share
- Reduced hours
- Home working
- Career Break

## 3.0 Types of Flexible Working

Flexible working covers a range of different areas (as listed above). It will nearly always be determined by the following criteria:

- The hours they work;
- The times when they are required to work;
- The ability to work from another location of the business or from home (whether for all or part of the week).

### 3.1 *Time off for dependants*

Employees have the right to be granted **un-paid** time off work for an emergency involving a dependant. This time off can be to deal with an unexpected or sudden problem and to make longer term arrangements. The employee should not be dismissed, suffer detriment or be victimised for doing so.



A dependant can be defined as a spouse, child, parent or someone who cohabits with the person claiming the time off but is not his/her employee, tenant, lodger or boarder.

A dependant will also include someone who reasonably relies upon the employee for assistance when ill, injured or for the provision of care. This may be where the employee is the primary carer or is the only person who can help in an emergency.

There is no set limit with regards to the amount of time off that is allowed. One or two days at the most should be sufficient depending on the individual special circumstances.

### **3.2 *Compressed hours working***

The purpose of this is to give existing employees the opportunity to compress their working week/fortnight to assist with out of work responsibilities and activities, and where possible, to seek improvements to service availability.

Full time hours are worked over fewer days. Examples of this are a four day week and/or a nine day fortnight. A lunch break of not less than 30 minutes will be allowed. Annual leave will be expressed in hours rather than days per annum.

This will usually be piloted on a trial basis for a specified period of time. The terms of each pilot will be set out in writing and signed by the employee and his/her Head of Service. These terms will include the right to terminate the facility on either side with appropriate notice (a minimum of one month).

### **3.3 *Term-time working***

The purpose of this is to give existing employees the opportunity to take unpaid leave of absence during school holidays and, where possible, to seek improvements to service delivery. This should prove useful in attracting employees with child caring responsibilities and in combating skill shortage.

The basic annual leave specified for the equivalent full time post will be apportioned on a pro rata basis. Any additional entitlements to this, e.g. long service leave, will be applied individually and pro rata to the hours worked. Annual leave may be expressed in terms of hours rather than days per annum, where appropriate.

The Scheme is conditional upon the employee utilising his/her annual leave and statutory unpaid parental leave during the school holiday periods. The employee will be allowed to retain up to 5 days annual leave to cover domestic commitments or emergencies which may occur at other times during the annual leave year.

The employee will normally be paid in 12 equal instalments throughout the year. This is on the basis of the employee completing a 12 month cycle following his/her date of commencement in the Term Time Working Scheme.

Where statutory Bank Holidays fall during the employee's designated school holiday period, they will be unpaid. However, an appropriate pro rata equivalent for all Bank Holidays that fall within such periods of unpaid leave will be added to the employee's annual leave entitlement.

Where the employee falls ill during his/her designated school holiday period, he/she should report the sickness in the normal way. Term Time employees should be aware that as the payment of the pro rata salary continues during designated school holiday periods, any failure to report sickness may lead to a deduction in pay.

This will initially be piloted on a trial basis for a specified period of time (e.g. 6-12 months). The terms of each pilot will be set out in writing and signed by the employee and his/her Head of Service. These terms will include the right to terminate the facility on either site with appropriate notice (a minimum of one month).

### **3.4 Parental leave**

Parental leave is the right to take time off unpaid to look after a child or make arrangements for the child's welfare. Employees are eligible to take **18 weeks** in total for each child. The limit on how much parental leave each parent can take in a year is 4 weeks for each child, (unless otherwise agreed). This is pro rata for part time employees.

Parents can chose to take their parental leave at any time within the following conditions:

<b>Child</b>	<b>Entitlement</b>
For each child	18 weeks up to their 5 <sup>th</sup> birthday
For each adopted child	18 weeks up to their 18 <sup>th</sup> birthday or

Child	Entitlement
	5 <sup>th</sup> anniversary of their adoption, whichever comes first
For each child who qualifies for Disability Living Allowance	18 weeks up to their 18 <sup>th</sup> birthday.

Employees must give at least 21 days notice of the intended start date of their leave period.

Leave should be taken in blocks or multiples of one week; in exceptional circumstances, leave may be taken as single days, subject to notice provision.

### **3.5 Job share**

Under this job sharing scheme, two suitably qualified employees will voluntarily share the duties and responsibilities of one full-time position. The salary and conditions of service will be divided between them. Both employees should be suitably qualified to undertake the range of tasks and responsibilities necessary in carrying out the full-time post.

Job sharing posts can be set up in the following ways:

- An existing post holder can opt to job share and the other half of the post would then be advertised;
- One successful candidate can be appointed to a vacant post on a job share basis, and the remaining hours of the post would then be advertised as a job sharing only vacancy;
- Two separate candidates can be appointed to a vacant post on a job sharing basis (subject to them both being considered on merit as the best persons for each half of the job sharing post);
- Two candidates can apply jointly for a vacant post, either at the same rate of pay or at a higher rate of pay, and both can be successful (subject to them both being considered on merit as the best persons for each half of the job sharing post).

### **3.6 Reduced hours**

The purpose of this Scheme is to give employees the opportunity to reduce their working week to assist with out of work responsibilities and activities and, where possible, to seek improvements to service delivery.

The Reduced Hours working scheme will initially be piloted on a trial basis for a specified periods of time. The terms of each pilot will be set out in writing and signed by the employee and his/her Head of Service.

These terms will include the right to terminate the facility on either side with appropriate notice (a minimum of one month).

The employee will have the right to be considered for a return to full time working in the job in which he/she was employed prior to the reduction in his/her hours. In such circumstances, the employee should put his/her request in writing to the relevant Head of Service, including the date on which he/she would like to return to full time work. The Head of Service will make a decision based on objective and job related reasons. This decision will be confirmed in writing to the employee, normally within one month of receipt of the request.

The basic annual leave specified for the equivalent full time post will be apportioned on a pro rata basis. Any additional entitlements to this, e.g. long service leave, will be applied individually and pro rata to the hours worked. Annual leave may be expressed in terms of hours rather than days per annum, where appropriate. Employees eligible for flexi time will be entitled to the time on a pro rata basis. Bank holidays will be calculated in the same way.

### ***3.7 Career Break***

It is recognised that employees have different needs at different stages of their working lives and employees may need or wish to break their career in order to dedicate time for responsibilities or interests outside the workplace.

A career break is defined as *“an opportunity to leave the workplace, unpaid, for a specific period of time and then return to the same at the end of that period”*.

It can be used for the following purposes:-

- Childcare
- Care of a dependant
- Voluntary Services Overseas or community related issues
- Study at college/university

- Other personal reasons, i.e. travel, self development.

**Please note, a career break cannot be used for undertaking any other paid employment.**

A career break can last between a minimum of **3 months** and a maximum of **2 years** and shall not include maternity leave or any other period of paid leave. More than one break may be taken provided there is 5 years employment between breaks, and the overall combined duration of Career Breaks is no more than 2 years.

#### **4.0 Benefits of flexible working**

The benefits of increasing the uptake of flexible working schemes for employers and employees are:

- The retention of skilled employees;
- The avoidance of the financial costs of making redundancies;
- The increase in job security;
- The reduction in the overall wage bill;
- The improvement of work life balance.

#### **5.0 Right to Request Flexible Working**

The Council has always adopted a policy whereby all employees have the right to request flexible working. The law changed on 30<sup>th</sup> June 2014 whereby this is now a statutory right providing the employee has worked for the organisation for more than 26 weeks. This right previously only applied to parents with children under the age of 17 (or 18 if the child is disabled) and certain carers.

An employee can only make **one** statutory request in any 12 month period. Employees who have been employed for less than 26 weeks, agency workers and office holders do not have a statutory right to request flexible working. Nevertheless, employers may still wish to consider a request from these groups as flexible working can bring business benefits as well as benefits to the employee.

#### **6.0 Applying for Flexible Working**

- Only **one** application to work flexibly is allowed within a 12 month period.
- Requests must be made in writing. If you are interested in applying for flexible working, you will need to complete an FW1 form (Appendix A). Please complete and submit this form to your line manager.

## **7.0 Handling the Request**

Employers should aim to respond to this formal request within 14 days of the application being submitted by arranging a meeting with the employee. This will provide an opportunity to explore the desired work pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative working patterns should there be problems in accommodating the desired work pattern outlined in the employers' application. The employee has the right to be accompanied to this meeting by their union representative or work colleague.

Decisions will be based on whether or not a request can be granted on business grounds rather than the employee's personal circumstances. Flexible working arrangements will not be granted where it is considered that the efficiency of the service will be adversely affected.

Having considered the changes the employee is requesting and weighed up the advantages, possible costs and potential logistical implications of granting the request the employer must let the employee know their decision to either:

- Accept the request and establish a start date and any other action; or
- Confirm the compromise agreed at the discussion, such as a temporary agreement to work flexibly; or
- Reject the request, setting out clear business reasons, how these apply to the application and any appeal process.

The decision should be put in writing as this can prevent any confusion at a later date. Where the request is granted, it is important to set out what changes will be made to the employee's terms and conditions.

## **8.0 Rejecting a Request**

Any application will only be rejected for one of the eight business reasons as set out below:

- 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 proposes to work;

- A planned structural change to your business.

## **9.0 Appeals**

The grievance appeals procedure provides an employee with the right to appeal the decision within 14 calendar days of it being notified to them. The grounds for the appeal should be put in writing to the Head of Human Resources, The Quays, Brunel Way, Baglan Energy Park, Neath, SA11 2GG.

## **10.0 Pensions**

It is the employees' responsibility to contact the Pensions Section to find out whether this change will have an impact on their pension.

**Appendix A**

**Flexible Working Application Form (FW1)**

**To be completed by the employee.**

Name: ..... Employee Number: .....

Job Title: .....

Are you making this request for flexible working in relation to the Equality Act 2010? (i.e. as a reasonable adjustment for a disability).

Yes  No

What type of flexible working are you applying for:

- Time off for dependants
- Compressed hours working
- Term-time working
- Parental leave
- Job share
- Reduced hours
- Career Break
- Other (*please specify*)  .....

Please specify the reason for your request: .....  
.....  
.....

Please specify your current work pattern: .....  
.....  
.....

Please specify your proposed working pattern: .....  
.....



.....  
When would you like to start this new working pattern if agreed? .....

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

Note: please allow at least 14 days within which you should receive a response from your manager or Head of Service.

**Appendix B**

**Flexible Working Response (FW2)**

**To be completed by the manager and submitted to the Head of Service.**

Please describe what you consider the impact of this new work pattern would be on service delivery and how any difficulties could be overcome:

.....  
.....  
.....  
.....  
.....

Signed (Head of Service): ..... Date: .....

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL  
CYNGOR BWRDEISTREF SIROL CASTELL NEDD PORT TALBOT**

**GUIDANCE FOR MANAGERS ON  
FLEXIBLE WORKING REQUESTS**

**OCTOBER 2014**

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## **1.0 Introduction**

Every employee has the statutory right to ask to work flexibly after 26 weeks employment service. An employee can only make a statutory request once in a 12 month period. This guide is intended to help employers deal with written requests made by employees to change their working hours or place of work under the statutory right in the Employment Rights Act 1996 to request flexible working.

The advice in this guide, as well as helping employers, will also be taken into account by employment tribunals when considering relevant cases.

## **2.0 Handling the Request**

A request from an employee under the Employment Rights Act 1996 and regulations made under it must be in writing and must include the following information:

- The date of their application, the change to working conditions they are seeking and when they would like the change to come into effect.
- What effect, if any, they think the requested change would have on you as the employer and how, in their opinion, any such effect might be dealt with.
- A statement that this is a statutory request and if and when they have made a previous application for flexible working.

All of this information is detailed on the Flexible Working Request form (FW1) which is attached to the policy document. *\*link*

### ***2.1 What to do with the request***

Once you have received a written request, you must consider it. You should aim to respond to this formal request within 14 days of the application being submitted. You should arrange to talk with your employee as soon as possible after receiving their written request. If you intend to approve the request then a meeting is not needed.

You should allow an employee to be accompanied by a work colleague or Trade Union Representative for this and any appeal discussion and the employee should be informed about this prior to the discussion.

At the meeting, you should discuss the desired work pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative working patterns should there be problems in accommodating the desired work pattern outlined in the employers' application. The employee has the right to be accompanied to this meeting by their union representative or work colleague

### ***2.2 Discuss with the employee***

You should discuss the request with your employee. It will help you get a better idea of what changes they are looking for and how they might benefit your business and the employee.

Wherever possible the discussion should take place in a private place where what is said will not be overheard.

### **2.3 Consider the request**

You should consider the request carefully looking at the benefits of the requested changes in working conditions for the employee and your business and weighing these against any adverse business impact of implementing the changes. In considering the request you must not discriminate unlawfully against the employee.

You must complete the Flexi Working Response Form (FW2) which is attached to the policy document and submit this to your Head of Service. *\*link*

When the form has been signed by your Head of Service you must inform the employee of that decision as soon as possible. You should do this in writing as this can help avoid future confusion on what was decided.

If you accept the employee's request, or accept it with modifications, you should discuss with the employee how and when the changes might best be implemented.

If you reject the request it must be for one of the following business reasons as set out in the legislation:

- 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 proposes to work.
- A planned structural change to your business.

If you reject the request you should allow your employee to appeal the decision. It can be helpful to allow an employee to speak with you about your decision as this may reveal new information or an omission in following a reasonable procedure when considering the application.

### **2.4 Deal with requests promptly**



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 you agree to extend this period with the employee.

If you arrange a meeting to discuss the application including any appeal and the employee fails to attend both this and a rearranged meeting without a good reason, you can consider the request withdrawn. If you do so, you must inform the employee.