

**Personnel Committee – 12/06/2023**

**Ways of Working (WoW) Policy and Right to Request Flexible Working Policy**

**1. Purpose of the report**

- 1.1 To introduce the new Ways of Working Policy (Appendix 1) and gain Personnel Committee approval, following endorsement from Corporate Management Team (CMT) at its meeting of 01 June 2023.
- 1.2 To gain Personnel Committee approval for the revised Right to Request Flexible Working Policy (Appendix 6) endorsed by Corporate Management Team (CMT) as its meeting of 01 June 2023.
- 1.3 To brief Personnel Committee on other associated policies, procedures or guidance linked to the introduction of the Ways of Working Policy.

**2. Recommendations**

- 2.1 Personnel Committee is recommended to approve the Ways of Working Policy (Appendix 1) endorsed by CMT (01.06.23).
- 2.2 Personnel Committee is recommended to approve the revised Right to Request Flexible Working Policy (Appendix 6) endorsed by CMT (01.06.23).
- 2.3 CMT is recommended to approve the proposed changes (as detailed in section 3.14 of this report) to a future version of the Right to Request Flexible Working at a point in time when the pending legislation detailed comes into force and that this is delegated to the Director of HR/OD/ABS, as endorsed by CMT (01.06.23).
- 2.4 Personnel Committee is recommended to note the following documents which support the Ways of Working Policy;
  - a) Ways of Working Procedures (Appendix 2)
  - b) Remote Working Outside of the UK guidance (Appendix 3)
  - c) Remote Working Outside of the UK request form (Appendix 4)
  - d) Remote Working Outside of the UK temporary agreement (Appendix 5)

- 2.5 As the purpose of the four documents listed in 2.4 are covered in the Ways of Working Policy (2.1) and the documents themselves are process or guidance related, we request that the approval of any updates to them on an ongoing basis be delegated to the Director of HR/OD/ABS.
- 2.6 Personnel Committee is recommended to note that the introduction of the new Ways of Working Policy replaces the existing Agile Working Policy, Clear Desk and Screen Policy and Coronavirus Guidance and therefore all three of these documents will cease to be live once the Ways of Working Policy becomes effective.

### **3. Background Information**

- 3.1 The Agile Working Policy was refreshed and the Coronavirus guidance developed in response to the home working situation created during the COVID-19 pandemic. The council is now no longer operating under the day to day restrictions of the pandemic, and as part of PROUD and the resetting process the council have been working in a more flexible and customer centric way following restrictions being lifted, reconfirmed by Personnel Committees agreement of our customer focused ways of working principles (at its meeting of 05 December 2022).
- 3.2 The ways of working principles help to ensure the council is fit for the future, customer focused, efficient, effective and seen as an employer of choice in an increasingly competitive labour market. As we have been working in a flexible/hybrid manner across various sections of the council for some time post pandemic, there is a need to replace outdated guidance (namely, Agile Working Policy, Clear Desk & Screen Policy, Coronavirus Guidance) with a new approach that focuses on our customer focused ways of working and how we work at the council now and moving forward in the future. Our new Ways of Working Policy and accompanying Ways of Working procedures have been designed to meet this need following extensive employee / manager and trade union consultation.
- 3.3 The right to Request Flexible Working Policy was last updated in 2019 and as well as being due for a cyclical refresh, has also been reviewed in order to further support the new Ways of Working Policy and in preparation for forthcoming/pending legislative changes. Although the timescale of the legislation changes has not yet been confirmed, it was felt that some of the changes could be effected in council policy in advance as they are beneficial to our Workforce Strategy and support the new ways of working principles.

#### *Aim*

- 3.4 The aim is to ensure that the council is able to deliver against its priorities and has an effective and legislatively compliant employment policy framework that align to these priorities.

*Know*

- 3.5 The new Ways of Working Policy incorporates learning from the pandemic and focuses on employee and manager support, ensuring the council is able to sustain and adapt to new customer focused ways of working. The policy takes forward the agreed ways of working principles;
- Customer focused ways of working that are designed to deliver the best outcomes for our residents;
  - An outcomes based approach that centers on 'work is what you do, not where you do it';
  - Employees will work flexibly based on customer and operational service needs, being accountable and remaining focused on delivering the council's outcomes and priorities;
  - Managers will manage within a flexible hybrid environment, being accountable for performance management of individuals and the team(s), setting objectives and monitoring delivery, regular communication and employee development, and health and wellbeing support.
- 3.6 The Ways of Working Policy covers the following broad areas;
- Sets out the principles of the policy including identifying types of working across the council, some roles which are undertaken remotely, some on site and some where a mixed approach is more beneficial;
  - The focus of ways of working must be the customer and therefore the approach taken is driven by service and business need and is subject to managerial direction;
  - Sets out the expectations of employees and clearly outlines what is expected of them when working remotely, including a requirement to comply with all council policies, guidance on MS Teams and email use, as well as attending the office when requested to do so;
  - Outlines the importance of positive employee health and wellbeing and provides employees with support and guidance on managing their working time, their working environment, working relations as well as providing further information for additional supportive resources;
  - Provides support and guidance to managers in managing remote workers, including communication, setting expectations and objectives, monitoring and feedback on performance and providing support to employees where needed;
  - A caveat that remote working outside of the UK, can only be temporary (no more than 3 months) undertaken where exceptional circumstances apply and where express consent has been given by

way of a temporary outside UK working signed agreement (refer to section 3.9 of this report).

- 3.7 In addition a complimentary Ways of Working Procedures document has also been developed as a practical tool to support remote working and this covers;
- Health & Safety, including the requirement to complete DSE and home suitability assessments before commencing remote working;
  - DaTS equipment / furniture and consumables including inventory lists and reasonable adjustments;
  - Personal safety, risk and assurance;
  - Information Governance, data protection, printing, clear work stations and screens.
- 3.8 The separation of the policy and the procedures documents came as a result of consultation feedback regarding the length and complexity of the initial combined document, however an acknowledgement of the need for all of the content. In addition moving the practical elements into a secondary document that is more quickly and easily updated also made more sense because due to their process based nature they are more likely to need amending regularly.
- 3.9 Since the pandemic there have been an increasing number of requests to work from countries outside of the UK. In addition it has been identified that an increasing number of council employees are accessing council systems from outside of the UK without necessary seeking permission. Working from outside of the UK in an uncontrolled manor may pose significant risks to the council, including data protection, cyber security and potential financial implications if we have not correctly assessed the request including, tax, social security, right to work and other employment legislation of the country concerned.
- 3.10 Currently the council have no policy in place to govern (or not) working from outside of the UK. During the pandemic some temporary guidance was issued as part of the Coronavirus Guidance stating:  
*“Whilst during the pandemic temporary working arrangements may have been agreed on a case by case basis for working from a base outside of the UK.... Managers should therefore not be agreeing any permanent arrangements for existing staff to work outside of the UK or employing staff based outside of the UK”.*
- 3.11 It is recognised that there may be times where an employee could work remotely outside the UK e.g. for compassionate grounds, and that allowing an employee to work overseas on a temporary basis may also assist the council in maintaining critical service delivery, as well as supporting the employee’s wellbeing, aiding employee retention and preventing loss of knowledge and skills. However, the council should not consider allowing permanent requests to work outside of the UK, as having an employee based permanently abroad could potentially see the council having a presence and activity overseas which is seen as a

‘permanent establishment’ and liable for tax. The risk is reduced where the overseas working is of a temporary nature and with the above in mind remote working outside of the UK on a temporary basis (and in exceptional circumstances) has been referenced in the new Ways of Working Policy (Appendix 1 section 4.12).

- 3.12 In addition to the reference of remote working outside of the UK in the Ways of Working Policy, we have also developed some further guidance included at Appendix 3, 4 & 5 for information. The Remote Working Outside the UK Guidance (Appendix 3) outlines the process for making such requests and what managers need to consider before approval. The request form (Appendix 4) asks for the exceptional circumstance rationale, the business implications related to the specific country of travel and the identification of any potential risks before approval and requires sign off from the line manager and Head of Service (or above). The Remote Working Outside the UK Temporary Agreement (Appendix 5), which requires signing by the employee and manager, once the request has been approved, details the obligations regarding data protection and information security which must be adhered to when working outside of the UK for the temporary period.
- 3.13 The revised Right to Request Flexible Working Policy (Appendix 6) includes the forthcoming legislation changes;
- Making the right to request flexible working a day one right for employees (rather than having to wait for 26 weeks continuous service)
  - Consulting / holding a meeting with employees, as a means of exploring options, especially where employers are considering rejecting the request.
  - Requesting temporary arrangements and informal flexibility for short term changes.
  - Changes in the timeframe for which the manager will confirm (accept/reject) the request from normally no later than 6 weeks to normally no later than 4 weeks. This is recommended best practice by ACAS, and is a step towards future legislation changes where the whole process (from application to appeal) must be dealt with in 2 months (rather than the current 3 months).
  - The amended policy also now specifically references the right to request home working (which is a current statutory right) but which was not previously mentioned in the policy because it was separately covered in the Agile Working Policy, which will no longer be a live document once the Ways of Working document is launched.
- 3.14 There are further pending legislation changes in relation to the statutory timescales of the right to request flexible working process, which require amendments to the Employment Rights Legislation;

- change to 'two requests in a 12 month period' (currently one request in a 12 month period)
- change to 'requests must be considered in a 2 month' timeframe' (currently requests must be considered in a 3 month time frame)

These changes have not been made to the policy, the policy remains within the current statutory timescales. However, a request is made to Personnel Committee that the policy be amended to the new statutory timescales as and when the legislation comes into force and that this is delegated to the Director of HR, OD & ABS without further Committee approval, providing the only changes made to the policy are to those related to the statutory timeframes as detailed above.

- 3.15 Finally, with the introduction of the new Ways of Working Policy, the existing Agile Working Policy (and guidance), Clear Desk and Screen Policy and Coronavirus (COVID-19) guidance / FAQs will be retired as the relevant information has been incorporated into the new Ways of Working Policy and Procedures.

#### *Our Council Plan priorities*

- 3.16 The policy is directly aligned to the council's strategic priority of internal focus ensuring all council services are customer focused, effective, efficient and equitable and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.

#### *Response*

- 3.17 Subject to approval, HR will finalise all associated guidance / forms (where relevant) and prepare a workforce communications and implementation plan ready for publication.

#### *Review*

- 3.18 Employment policies will usually be reviewed on a three yearly cycle, unless legislation or internal organisational need prompt a review earlier.

## **4. Financial Implications**

- 4.1 There are financial implications associated with the Ways of Working policy and procedure with regard to equipment / furniture for remote / mobile working. A central budget has not been allocated for these costs. Any associated costs (refer to the policy at Appendix 1) will be borne by the service area in which the employee works.
- 4.2 There may be financial implications where employees are working remotely outside the UK (e.g. tax implications), however managers would need to take appropriate advice and consider this before

agreeing to requests, where any such costs exist the request should not be approved.

## **5. Legal Considerations**

- 5.1 There are no specific legal issues anticipated from this report. Under the Equality Act there may well be circumstances which the council should agree to reasonable adjustments in relation to an employee's way of working and this is referenced within the policy.
- 5.2 Where employees are requesting to work remotely outside the UK, managers would need to take appropriate advice and consider the legal implications, such as right to work, before agreeing to requests.

## **6. Risk Management**

- 6.1 Relevant equality impact assessments are attached:
  - EqlA Ways of Working Policy (Appendix 7);
  - EqlA Right to Request Flexible Working Policy (Appendix 8).

## **7. People**

- 7.1 Employment policies include a scope section (where applicable) and in each policy it clearly sets out who the policy applies to and who it does not (Appendix 1 section 2 and Appendix 6 section 2).
- 7.2 There is a no direct impact on our residents as a result of this policy. The policy is however, part of the employment framework that helps to ensure that residents of Walsall get the best possible services from Walsall Council and its employees.

## **8. Consultation**

- 8.1 Specific collaboration has taken place to aid the development of the Ways of Working policy and procedures with colleagues from Corporate Landlord, DaTS, Information Governance, Health and Safety, Risk and Insurance. In addition discussions on the Ways of Working has taken place in various forums with Senior Managers, including managers in the Ways of Working, working group, Enabling Culture & Communications Workstream and SMG.
- 8.2 The Ways of Working policy and procedure was formally consulted upon with senior managers and trade unions colleagues across the council between 3 April and 25 April 2023.
- 8.3 Feedback from senior managers led to a number of minor changes / clarification of wording, with further amendments to clarify claiming home to office mileage and travelling time. On the whole the general

feedback was that managers agreed with the new policy and thought it was helpful in providing clarity on the new ways of working.

- 8.4 Feedback from consultation did include a request for a payment / allowance for home working, to cover increased costs of electricity, heating, broadband etc, particularly given the cost of living crisis. This has not been considered as part of the Ways of Working Policy but is noted for consideration and is currently subject to national negotiations with trade unions.
- 8.5 Trade union colleague's recommendations have been incorporated into both the Ways of working policy and Procedures where applicable. There were no outstanding recommendations or queries that trade union colleagues raised that were not either addressed or incorporated.
- 8.6 Specific collaboration has taken place with colleagues from Information Governance, DaTS, Information Governance, Risk and Insurance, Payroll / Finance and Legal to aid the development of the Remote Working Outside the UK guidance and temporary remote working agreement
- 8.7 The Right to Request Flexible working policy was formally consulted upon with senior managers and trade unions colleagues across the council between 25 April and 12 May 2023.
- 8.8 Feedback from senior managers led to clarification of wording in relation to where the request for flexible working related to a reasonable adjustment under the Equality Act.
- 8.9 Trade union colleague's recommendations have been incorporated into the Right to Request Flexible Working Policy where applicable. There were no outstanding recommendations or queries that trade union colleagues raised that were not either addressed or incorporated.
- 8.10 CMT considered and endorsed this report at its meeting of 01 June 2023.

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