

# Appointments Board – 2 October 2012

## Flexible Working Scheme.

**Service: Resources**

**Wards: All**

### **1. Summary of report**

1.1 This report asks the Appointments Board to agree changes to the current flexible working scheme.

### **2. Recommendations**

2.1 That the Appointments Board agrees:

1. The revised Flexible Working Scheme process document as at Appendix 1.
2. The ATAR recording system is reviewed.

### **3. Background information**

3.1 Human Resources is working to redesign a range of procedures to ensure they are fit for purpose, comply with legislation and follow best practice guidance where appropriate.

As part of this exercise work began in 2011 to review the flexible working scheme.

3.2 The existing flexible working scheme accommodates three strands of flexible working processes and mechanisms that interrelate. These are:

A: Time off in lieu (TOIL)

B: ATAR (Time and Recording computer software and hardware installations)

C: Flex-time (Spans of time around core operating hours within which staff can be credited for time worked over their contracted hours. Time accrued is taken back within a set accounting period of 13 weeks.

3.3 The councils existing schemes allows employees to accrue 20 TOIL days per 12 months, and 20 Flexi days per year, which are taken back at suitable periods; with a maximum of 5 credit days for each scheme recovered in a 13 week period.

These flexibilities of working are offered in addition to normal holidays and statutory and bank holidays.

3.4 A review of the ATAR system has identified some misuse of accounting whereby the location of existing ATAR terminals can capture time credited that isn't productive.

3.5 A review of ATAR time accrued was commissioned in September 2011 which identified that an accrual of an equivalent of 80 FTE posts was accumulated within a year. The bulk of time accrued is by employees working in excess of their contracted hours of employment so that service demands are met.

3.6 Reductions in staffing due to financial restrictions in some service areas have stimulated an increase in TOIL and FLEX time accrual due to staff working flexibly to accommodate service delivery needs. All employees below Director Level accrue

TOIL and FLEX time. High levels of time accrued and time taken back in FLEX and TOIL have been accumulated across all grade ranges up to and including heads of service. In addition to the 170,000 hours of time accrued by staff within a year and taken back in FLEX time, an average 4000 hours per month are worked by employees in excess of their paid contract with those hours not being recovered.

#### **4. The proposal**

4.1 It is proposed to revise the existing Flexible Working Scheme so that Flex-Time accrual is limited to an overall maximum accrual of 8 days per annum. It is proposed that 2 days can be accumulated in a 13 week period. The new arrangements to come into effect from the first accounting period of 2013 following a 90 day notice period beginning from 3<sup>rd</sup> October 2012.

4.2 To carry out a review of the ATAR system.

#### **5. Resource considerations**

5.1 The net impact of these proposals would retract an approximate £868k in paid hours.

170,000 hours of paid time approximates to £1.46M in employee costs. This accrual is based upon the ability to accumulate 20 days per annum. To limit an accrual to 8 days per annum would imply an accrual cost of £578k, a saving of £868k.

Savings identified will be reduced if overtime was worked in lieu of FLEX time, which emphasises the requirement for management to ensure operational staffing levels are adequate to ensure service delivery is met.

#### **6. Legal considerations**

6.1 Existing schemes constitute implied contractual benefits. A period of 90 days notice is required to be served to the workforce on any agreed change.

#### **7 Citizen Impact**

7.1 The efficiencies identified through Working Smarter will dovetail to improvements in staff time recording systems and help deliver better use of employee resources.

#### **8 Equality implications**

8.1 The proposals have been subject to council wide consultation. Employee perception is that work life flexibilities could be compromised by a proposal to reduce banked FLEX hours.

The specific proposal to limit FLEX accrual from 20 days per year to 8 does not affect employee opportunity to request to work flexibly, nor does it impair the ability to accrue TOIL, nor to work overtime if employed at grade G6 or under.

The proposed changes do not seek to alter existing working patterns but they seek to limit the accrual of additional hours being worked. This will help employees enjoy greater periods of time outside of work, in effect improving work life balance opportunities.

#### **9. Consultation**

9.1 Consultation with trades unions and the workforce has been undertaken, with comparators observed with other local authority partners. High volumes of feedback have been analysed and reviewed and further consulted upon with trades unions.

Trades unions are strongly opposed to these proposals.

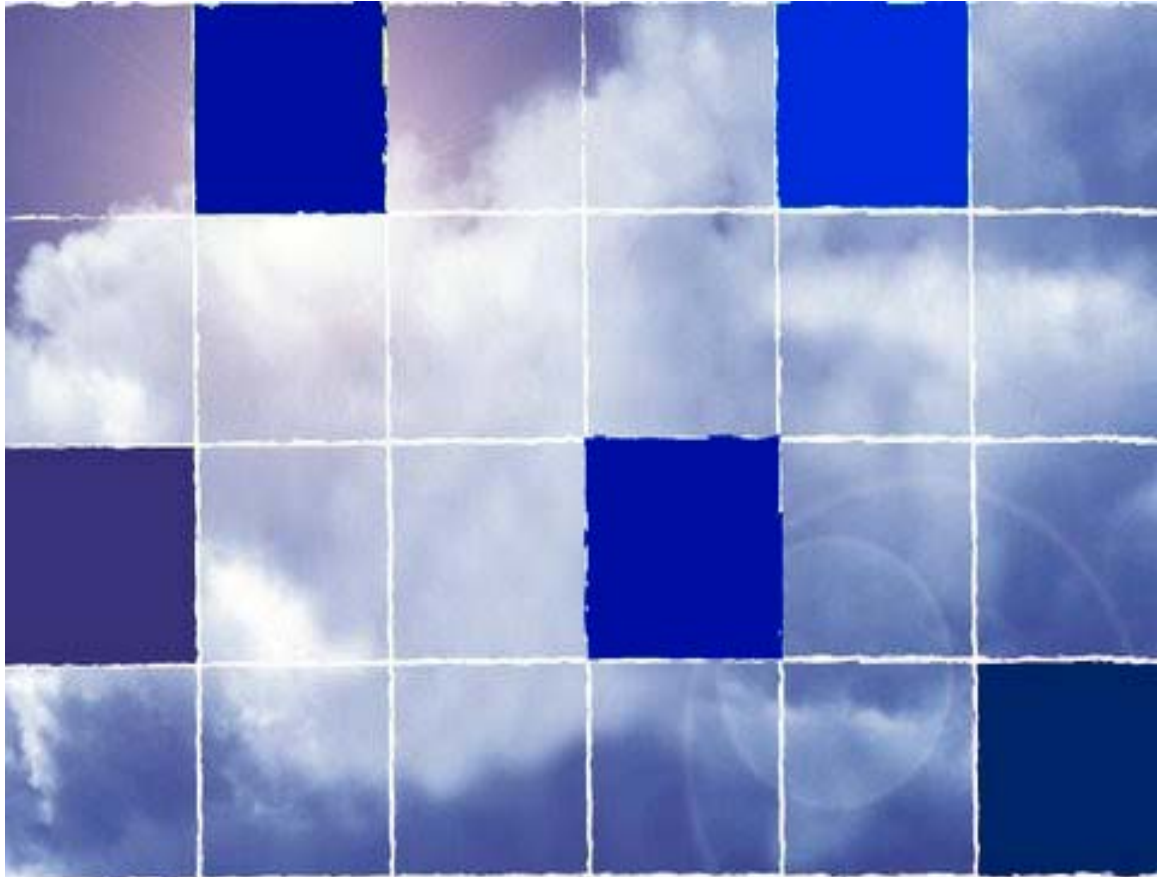
The proposals have been subject to further consultation with the Employee Relations Forum on 21<sup>st</sup> August 2012.

**Author**

Robert Phillips


☎ 01922 655748

[phillipsr@walsall.gov.uk](mailto:phillipsr@walsall.gov.uk)



## Flexible Working Scheme

### Guidelines for Managers and Employees

 <b>Walsall Council</b>	<b>HUMAN RESOURCES</b> Vision statement "To be an excellent employer we will create an environment which enables managers to develop, manage and lead people to achieve the council's vision" <b>OPERATIONAL SERVICES</b> <b>Version: 4</b> <b>Issued: Final June 2012</b>
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Please contact us if you:

- would like this information in another language or format
- cannot access the Walsall Council intranet and would like further details.

Human Resources Customer Advice Team

Phone 01922 655656

Textphone 0845 111 2910

Secure fax 01922 653689

E-mail [HRCustomerAdviceTeam@walsall.gov.uk](mailto:HRCustomerAdviceTeam@walsall.gov.uk)



# Flexible Working Scheme

## Introduction and Principles of the scheme

The flexible working time scheme allows employees to balance their personal and workload needs with the agreement of their manager. It allows employees to work a pattern which complements their individual needs taking into account the needs of the service. It allows employees a degree of choice taking into account an employee's commitments outside of work.

## Accountabilities

### Employee's responsibilities

- To make a fully completed application to their manager
- To be available to discuss their application in more detail if required

### Manager's responsibilities

- To consider all requests objectively and with sensitivity
- To be consistent when assessing, approving or refusing applications or requests
- If you turn down a request, explain why you are doing so in writing, giving clear business reasons
- To discuss the impact and implications on the employee with regards other policies i.e. pensions

An employee may work outside their set hours, with prior agreement from their manager. Flexible working assists employees by allowing discretion in start and finish times to reflect responsibilities outside of work. However, where flexible working cannot be supported due to operational requirements, alternative working arrangements should be put into place and managers will need to assess the service they delivery and set parameters to meet their service requirements.

All accounting periods will not exceed 13 weeks.

Banked Flexible working hours are defined as those hours an employee works in excess of their contracted working week which are "banked" and may be taken at a later date with the prior approval of their manager. A normal working week will be agreed between the line manager and employee and the ATAR recording system (or alternative time recording method for staff who do not use the ATAR system) will be set to accommodate the agreed working pattern. Where an employee does not fulfil their minimum agreed working pattern, they may work within the operating hours available to redress the deficit. Time worked will be adjusted by the relevant ATAR administrator.

It is important to note that the flexible working hours scheme is a benefit and not a right and managers are responsible for monitoring the hours banked by the employee to:

- make sure that the hours worked daily and weekly are not excessive
- monitor flexi hours to ensure service delivery
- make sure that the employee is carrying out their duties effectively when they arrive early or work late
- Ensure that the characteristics protected by the Equality Act 2010 are considered when making decisions:-

age  
 Disability  
 Gender reassignment  
 Marriage and civil partnership  
 Pregnancy and maternity (including sex, marriage, pregnancy, gender re-assignment)  
 Race (including ethnic origin, colour, nationality and national origin)  
 Religion or belief (including philosophical belief)  
 Sex  
 Sexual orientation

### **Who is eligible for the scheme?**

All employees, regardless of whether they are full time or part time, may work flexitime, (with the following exceptions)

The scheme does not apply to:

- school based staff, who work to conditions agreed with their school
- employees who are required to work fixed hours, such as cleaning staff
- employees who are employed on shifts or rota patterns
- employees at Director level and above

Any additional hours worked by employees in the latter two categories may be eligible for time off in lieu, depending upon the circumstances and the agreements in place within the service area and supported by their manager.

### **Roles and Responsibilities: Applying the scheme**

#### **Managers are required to:**

- Be designate as responsible person for the correct running of the scheme;
- Assess each individuals working pattern;
- Ensure that ATAR is set to accommodate an agreed working pattern for each employee

Where a working pattern is set an employee must work the hours agreed. If an employee chooses to clock onto ATAR outside of their agreed working pattern and without prior consent, they will not be credited with that time.

It is the responsibility of line managers to ensure that employees are managing their working time in accordance with the principles of the scheme.

Managers are required to:

- monitor the accrual of flexitime by each employee and TOIL for employees.
- make sure that accrual is not excessive based on the needs of the service and not in breach of the European Working Time Directive.
- monitor flexitime debits and take appropriate action to ensure that debits and credits are managed.
- approve requests for time off from employees under the scheme
- monitor the work carried out by the employee outside of the normal working day. If an employee stays behind or comes in early the manager should check that this attendance pattern is necessary.
- take appropriate action in the event of misuse of the scheme
- It is a line manager's responsibility to ensure that service delivery is sustained at all times when considering flexible provisions to make sure that the needs of the service can be met.

### **Core time**

This is the period of the day during which all employees are expected to be at work. Core times are 10:00 to 12:00 hours and 14:00 to 16:00 hours, although some service areas may have local agreements which vary these core times dependent on the needs of their service.

### **Flexible time**

These are the periods of the day outside of an employee's set core hours during which the employee can request in writing a variation in their agreed attendance.

Time will only be recorded for variances within the scheme when an employee has received approval to work outside their agreed working pattern / hours.

In all cases, variances must be temporary and subject to the needs of the service. However, reasonable adjustments must be considered for employees who are covered by the protected characteristics in the Equality Act 2010.

Employees are required to commence between **07:30** and **10:00** hours and finish between **16:00** and **19:00** hours (unless working an alternative shift pattern).

Working patterns that an employee or service area decides to operate under this scheme will not qualify for a shift payments. For example, an employee who works variable working hours 07:30 to 16:00 hours on one day and 10:00 to 19:00 hours on the next day would not be eligible to claim alternating shift payments.



## **Rest Periods**

Rest periods are also subject to flexible working arrangements. All employees who work more than 6 hours per day must comply with the European Working Time Directive and take a minimum of 20 minute break, (The Council policy is for staff to book a minimum 30 minute rest period normally taken as a meal break). This break must be taken during the working day; not at the end of the day.

Meal breaks for staff working between 07:30 and 19:00 must be taken between Midday and 14:00hrs. Depending upon the hours being worked, a meal break can be approved outside of the standard meal period, this should only occur when it has not been possible for the employee to take a meal break during the set span.

Whilst the minimum lunch break is 30 minutes, employees can take up to two hours, i.e. between 12:00 and 14:00 hours, by prior agreement with their manager and in line with the needs of the service.

It is a line manager's responsibility to ensure that service delivery is sustained at all times when considering flexible provisions to make sure that the needs of the service can be met.

## **Accounting period**

The European Working Time Directive (EWTD) requires that adult employees cannot be forced to work more than 48 hours a week on average - this is normally averaged over 17 weeks. You can work more than 48 hours in one week, as long as the average over 17 weeks is less than 48 hours per week.

The Councils accounting periods for the purposes of flexitime working are 13 week spans; this is the total period of time (accounting period) in which employees must have completed their contractual working hours.

## **Exceptions on ATAR**

Exceptions are created on ATAR when an employee for whatever reason fails to clock on ATAR or an unauthorised absence is recorded. However, the same principle applies to manual time recording systems.

There should be four clockings/registrations per day for each employee, with the exception of employees who work for less than 6 hours per day, where two clockings/registrations are required.

## **Carry over**

This is the number of hours in any 13 week accounting period that the employee can carry over into the next accounting period, whether this be a credit or debit. This is also the period in which extra flexitime worked must be taken back.

Employees may carry forward a maximum of 2 days (pro-rata for part time hours) from one accounting period to the next, pro rata for part time staff. Any voluntary hours in excess of this will not be eligible for claim-back and will not be carried forward to the next accounting period.

Employees should accrue no more than 4 hours debit (pro-rata for part time hours) at the end of the accounting period. Any breach of the maximum debit allowed will be assessed by the line manager and where appropriate an employee could be subject to disciplinary action.

Employees may not transfer any flexitime excess to the TOIL (Time Off In Lieu) scheme or vice versa.

### **Normal working day**

These are the standard working hours where the Council is required to provide a service to the citizens of Walsall, with the exception of services which are provided outside of these working hours. The normal working day is:

- 0845 to 1715 hours Monday to Thursday
- 0845 to 1645 hours Friday

### **Flexi-leave**

This is defined as time that an employee can take as a result of accumulating enough credit hours within the 13 week accounting period.

Applications for flexi leave will be subject to the same approval criteria as all other applications for leave. Employees are required to request flexi-leave in writing giving the same notice period as required for annual leave and subject to the needs of the service.

Employees may only take flexi leave in respect of credit balances already accrued. No employee may request flexi leave on the assumption they may accrue an entitlement in the future.

Flexi leave may be taken in half or whole days and a maximum of 2 days may be taken during each accounting period (pro rata for part time staff). Employees should request flexi leave in the same way as annual leave by completing the annual leave card and submitting this to their manager for approval. They should provide a list of what additional work was done in this time for their managers agreement and approval.

Flexi leave will not be considered whilst there are any outstanding exceptions on the ATAR system or queries on manual time records.

### **Meeting service needs**

It is a provision of the scheme that all service areas are adequately staffed throughout the normal working day, including rest breaks, subject to lone working arrangements and personal safety arrangements being adequate. Further details on lone working can be found on the intranet. Employees are therefore required to co-operate with their managers to make sure that services to the public are maintained.

### **Recording arrival and departure times**

All employees (whether or not they are eligible for the scheme) must record their arrival and departure times (including rest periods), either via manual records or through the council's automated time recording system (ATAR). Records should be maintained by a nominated officer within the service area, (or an ATAR administrator). They are required to report excess credit/debit hours to their manager throughout the accounting period.

Recording arrival and departure times is a requirement of the Council and failure to record or evidence of false recording is a breach of Council policy and may result in disciplinary action. All records, (manual and ATAR), may be subject to regular scrutiny from internal audit. Any breaches of the scheme will be subject to disciplinary action.

### **Recording arrival and departure times where the employee is out of the office**

Where an employee starts or finishes their working day away from the office, their working time will be in accordance with their agreed work pattern, they should make a note of the exact start or finish time. On return to the office, employees are required to notify their line manager and ATAR administrator who manages ATAR exceptions or record their start / finish times on the manual recording system.

Employees can remotely clock in and out of ATAR via the telephone or intranet. To access this facility the employee's manager is required to email the ATAR systems manager to authorise telephone access.

Employees can clock in and out via their PC by logging onto their ATAR account.

### **Time off in lieu (TOIL)**

TOIL may be accrued under the following conditions:

- through attendance at a function, forum, meeting or event at which the employee represents the council and which takes place outside of the standard opening hours of the council.
- through undertaking work outside of normal working hours by prior arrangement with their manager in order to complete specific tasks, e.g. preparing a report to meet a strict deadline;
- Employees undertaking additional work outside of their normal working pattern.

### **How much TOIL can be accrued by an employee?**

TOIL is accrued within the same 13 week accounting period as for flexitime. Again, employees may carry over no more than 2 days from one accounting period to another. Additionally, employees may accrue no more than 2 days TOIL in any single accounting period.

Excess TOIL cannot be transferred to flexitime and vice versa.

### **How is TOIL recorded?**

TOIL is recorded in the same way as flexitime; i.e., via the completion of a manual record or time sheet, or via ATAR with the record logged on an employee's annual leave card.

### **How is TOIL granted?**

TOIL is granted in the same way as requests for annual leave or flexitime by the completion and submission of the annual leave card. Approval of TOIL is subject to the needs of the service. Unlike flexitime however, TOIL can be taken in hours and minutes, as opposed to half or full days.

## **Requesting a change in working hours**

This policy applies to all employees regardless of service.

### **Provisions**

Employees may request to:

- Change the hours they work
- Change the times when they are required to work;
- Agree a home-working contract (part or whole time); or
- Job-Share his or her post

Employees must make a dated application in writing to their manager. The application must state:

- That it is a formal application under the legal right to apply for flexible working and that they have responsibility for the care of a dependent; **or**
- That it is a formal application providing the reason(s) they have for wanting to change their work pattern/location

### **And**

- The change applied for;
- The date on which they would like the change to take place
- Explain what effect, if any, they think making the change would have for the Council and how, this effect might be managed.
- Whether they have made a previous application and if so when.

The application will be deemed to have been made on the date the employee's manager receives it.

Having received the employee's completed application form their manager will ensure the employee receives an acknowledgement receipt in writing, and then will have 28 days to consider the employee's request.

Within this period the manager will organise a meeting with the employee to discuss the application and following the meeting, the manager will ensure that the employee is written to either:

- (a) inform the employee that their request has been approved and state the contract variation agreed to and the date from which it will take effect. At this point the process is complete; or
- (b) arrange a meeting with the employee to discuss why their request cannot be agreed.

## **Initial Meeting and Discussion**

The meeting to discuss the employees request must take place within 28 days of their application being made at a time and a place convenient to both the employee and manager. The employee can, if they wish, take a Trade Union representative or work colleague along to the meeting (see below for advice on the role of the companion). If their companion cannot attend, the meeting must either be postponed to a mutually convenient time (but within 5 working days of the date originally proposed) or the employee should consider an alternative companion.

To get the most from the meeting the employee should:

- (a)** be prepared to expand on any points within their application;
- (b)** be prepared to be flexible and consider what, if any, alternative working patterns the employee would consider, or if they would consider an alternative period or a trial period;

**and**

- (c)** ensure that any Trade Union representative or work colleague is fully briefed on the employees request (having informed their manager beforehand that a companion will be present).

If the employee cannot attend the meeting they should contact their manager immediately and give reasons. The meeting will be rearranged. If the employee fails to attend the re-arranged meeting without good cause the manager will treat the employees application as having been withdrawn.

The employee will be told of the decision in writing either within 14 working days (or a reasonable timescale) of the meeting. If their request is agreed the letter will confirm the agreed changes and the start date.

Once a change is agreed the revised working arrangements become a permanent contractual variation unless a trial period has been agreed.

If the employees application is rejected the letter will give reasons and set out the appeal procedure. The possible grounds for rejecting a request are:

- The burden of additional costs which may be excessive
- Detrimental effect on ability to meet customer demand
- Inability to re-organise work among other staff
- Inability to recruit additional staff
- Detrimental impact on service quality
- Detrimental impact on performance
- Insufficiency of work during the periods you propose to work
- Planned structural changes

## **Role of the Trade Union Representative / Work Colleague**

The companion must be an employee of Walsall Council or an accredited trade union official. They can address the meeting or confer with the employee during it but they cannot answer questions on the employee's behalf. A companion is entitled to paid time off work to attend the meeting within normal Trade Union release time recognition.

## **Guidelines for Managers when considering an application**

In order for managers to consider applications appropriately, they should consider the following practical steps:

### **1. Job analysis**

- Start by doing a brief job analysis of the job role in question
- Consider the equality requirements of the employee
- Check if the employee's proposed hours support the tasks outlined in the job analysis and assess if all the tasks are necessary.
- If there is a mismatch, consider how the tasks might be divided up differently and assess if some parts of the job could be reallocated or rescheduled.
- Will the impact on service users be beneficial?

- **Managing the new arrangements**

The following points should be taken into consideration:-

- How will the new arrangements be supervised and performance measured? Will you support a trial period?
- What will be the impact on other people in the team you manage?
- Will the long-term benefits of flexible working (such as staff retention and saving on recruitment) outweigh the short-term costs of implementing change?
- How often will the arrangement be reviewed? A suitable formal review period should be set to ensure that the new working arrangements are not of detriment to the Council.

### **2. Impact on the team**

- Make sure you advise the other team members of the change in working hours and have a plan of action for dealing with any problems that may arise from the change.
- Hold regular reviews to ensure the scheme is working well for everyone.
- Use team meetings or find another way to ensure flexible workers remain informed and involved members of staff.
- Make employees aware as new training and job opportunities arise.

### **3. Approval/Trial/Refusal of a request**

- If a request is accepted the employee needs to be informed and the necessary changes made, including organising a suitable trial of the new working pattern and issuing any contractual variation following conclusion of the trial arrangements. Advice should be sought from Human Resources to ensure that revised contracts of employment are issued.
- A trial of the proposed new working arrangements should be arranged to support applications. A trial period is necessary to assess whether the proposed new arrangements would work or not, the employee needs to be informed of the decision. The decision must clearly state the period of the trial. If the employee refuses to accept a trial period they still have a right of appeal.
- Sometimes it may be necessary to decline or postpone a request e.g. for valid service reasons. Advice should be sought from Human Resources on this issue. Whatever the reason for refusing a request keep a record of the date, reason and circumstances of the refusal on file so that it can be reviewed at a later date if required. Let the employee know the reasons for the refusal and give them a timescale after which you will consider a new request.

### **4. Extension of Time**

There may be occasions when it is necessary to seek to extend the time limit for any part of the process. Managers must advise employees of the need for any extension.

### **5. Other considerations**

Managers and employees must be aware that any change in contract i.e. reduction in hours, re-allocation of duties etc; (as a result of a successful application) could impact upon:

- (a) Salary applicable to the new role. If this is the case the amended role may need to be submitted for job evaluation.
- (b) Pension. Please contact the Payroll department of the Human Resources Department for employees in the Local Government Scheme, Teacher Pensions or your HR manager or relevant professional associations for employees in the Teachers Pension Scheme for further information and advice.

These aspects should all be considered prior to an agreement being made.

### **Considerations for Job Share –**

If one Job Share partner leaves, how will you manage the post?  
This can give rise to any one of the following:

- (a) Managers may feel that job sharing the post in question has not been effective, and based upon an appropriate rationale decide that in future it should be occupied by one person working whole time.
- (b) Alternatively, the employee may be happy with the job share and ask that a partner be found. The manager however is under no obligation to identify a job share partner.

- (c) The circumstances of the remaining sharer may have changed and the employee may prefer to work whole time.

A situation could arise resulting in the termination of a job share and, conceivably, the dismissal of the remaining sharer. As such circumstances arise they need further consideration.

**Situation one:** Where the manager wants to terminate the job share, unless there are doubts as to the remaining job sharer's basic competence, the latter must be offered the job on a whole time basis. If s/he declines the manager must establish if there is alternative, broadly similar part time work available, initially in his/her own department and this if necessary in other departments. If such work is available the remaining sharer must be offered it. A reasonable period – not less than four weeks, should be set aside to allow this to happen. If no such work is available, or if the sharer declines what is available, the only course remaining would be to terminate the contract with due notice. In any event, attempts to find alternative work should continue throughout the notice period.

There must be substantial grounds for terminating the job share – i.e. sound, demonstrable reasons why job sharing was not an efficient or effective way of doing the job – and these must be clearly communicated to the sharer.

**Situation two** is where the manager is happy for the job share to continue and tries to find a new partner. Depending on many factors, particularly the type of work involved, this will be more or less difficult to achieve. However, the important thing is that every reasonable attempt is made to test the relevant 'markets', internal and external. If a partner cannot be found then the procedure already described comes into action, starting with the remaining partner being offered the job on a whole time basis.

### **Recruiting Job Sharers**

In most respects the process of recruiting job sharers is the same as for other staff. However, there are one or two differences and managers should be aware of them. The first point to note is that frequently one sharer will be an existing employee, either a whole timer who wants to share his or her post or the remaining sharer when a partnership breaks up. In other words, the odds are that one partner will be familiar with the job and the other not at all familiar with it.

#### **In this situation, points to consider are:**

- To what extent, if at all, should the 'experienced' partner be involved in choosing the inexperienced one?
- Is there an established, workable allocation of duties? If so, is there any reason to review it?
- How important is it that the partners are, as far as possible, 'compatible' in terms of a desired work pattern? The answer will depend largely on whether there will be occasions when both partners will be in work together; whether there is to be an in-built handover period each day/week.



- To what extent, if at all, should interview protocol be adjusted? For example, in the event of a joint application by two external candidates, should they be interviewed separately, or together as a team, or both?

Practice will differ according to preference and circumstances but it is important that these questions are addressed and Human Resources are contacted to offer support where required.

### **Further Advice and Information**

If you need any further advice on how to apply this policy please contact your Human Resources Department.