

Right to Request Flexible Working Procedure

Service: Human Resources

Wards All

1. Purpose of the report

To notify Personnel Committee of the recently adopted Right to Request Flexible Working Procedure (appendix 1).

2. Recommendations

That Personnel Committee notes the contents of this report.

3. Background

On 30 June 2014 new statutory guidelines came into effect which allow the right to request flexible working to be expanded to all employees with 26 weeks service and that also provide statutory guidelines for which such requests should be considered.

Under provisions set out in the Children & Families Act 2014, all employees have a statutory right to ask their employer for a change to their contractual terms and conditions of employment to work flexibly, provided they have 26 weeks continuous service at the date the application is made. Employers are under a duty to consider requests 'reasonably' (in a reasonable time and in a fair and reasonable manner).

The revised procedure includes the following key points:

- 1) Confirms the right of all employees to request flexible working (providing they have the required service)
- 2) Allows for flexible working requests to be made on either a permanent, temporary or trial basis (to support employees and organisational flexibility)
- 3) Identifies flexible working requests as; employees requesting a change to their working times, hours (including job share arrangements) or place of work
- 4) Provides a process and timescales for considering and responding to flexible working requests to ensure they are considered 'reasonably'
- 5) Details the legislative grounds for refusal to ensure that managers are supported where there are business reasons for refusing requests
- 6) Contains an internal appeals process to ensure fairness and to address any issues at the earliest possible opportunity

As this new procedure covers the process for job share arrangements (by virtue of them being a request to work flexibly e.g. a change to contractual hours – see point 3

above), the existing Job Share Policy was removed from circulation as all such requests should now be considered within the statutory guidelines laid out for flexible working requests.

In addition the existing Voluntary Reduced Time (VRT) procedure was removed from circulation as these requests will also be addressed through the Right to Request Flexible Working Procedure (see point 2 above), as employees will be able to submit requests for temporary or trial reductions in their hours.

Any existing VRT arrangements currently in place will run their course; however any renewals or new requests for VRT will be addressed through the Right to Request Flexible Working Procedure (which can accommodate temporary requests).

4. Financial

Where requests for temporary flexible working arrangements are approved, leading to a reduction in hours which does not require any backfill arrangements, there will be a cost saving against budget within the relevant service area. Budget holders will be required to manage this saving as part of their overall budget management for the service.

Some requests for temporary flexible working may necessitate more expensive backfill arrangements. In line with the current process, budget holders will be required to identify funding from within their existing budgets.

In line with the current process, to ensure that the financial implications for the council are managed appropriately, budget holders will be required to identify the funding before requests are approved on a permanent basis which leads to more costs on a long term basis.

5. Legal

No legal implications arising out of this report.

6. Risk Management

No risk management implications arising out of this report.

7. People

Contained within the report.

An Equality Impact Assessment (EqIA) was completed for this procedure.

8. Consultation

The revised Right to Request Flexible Working Procedure went out for consultation on 10 July 2014 to the following;

- All Assistant Directors (including nominated senior officers)
- Internal Audit
- Legal
- Finance

- UNITE, GMB and UNISON Trade Unions
- NUT, ATL and NASUWT Trade Unions

In addition a separate meeting was offered and held with a number of Trade Union colleagues to consider their views and review the procedure accordingly.

Following consultation, the Trades Unions have confirmed they are supportive of the revised Right to Request Flexible Working Procedure, they are however, keen for the process to be monitored and reviewed following implementation.

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Right to Request Flexible Working Procedure

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Owner	Human Resources Strategic Services		
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Effective from	1 October 2014	Approved on	18 September 2014
Last updated	1 October 2014	Last updated by	HR Strategy and Planning
Purpose	The Right to Request Flexible Working Procedure provides guidance and support to employees who would like to request changes to their working patterns.		

If you would like this information in another language or format contact the HR Absence & Customer Support Team.

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1.0 Introduction

- 1.1 There has been a growing demand for flexible working, both from individuals who want to achieve a better balance between their work and home life and from the Council to support the alignment of service delivery with the way employees work and with the needs of our customers.
- 1.2 This procedure provides guidance and support for employees to request flexible working and for managers to consider such requests in a fair and reasonable manner.

2.0 Scope of the procedure

- 2.1 This procedure applies to all Council employees with a minimum of 26 weeks continuous service (therefore excluding casuals). This procedure also applies to agency workers (with the required service) returning to work from a period of parental leave. This procedure does not apply to schools based employees.
- 2.2 An employee can only make one flexible working request in any 12 month period, unless their previous request was of a temporary nature lasting for less than 12 months.

3.0 What does flexible working mean?

- 3.1 An employee can request a change to:
 - the hours that he or she is required to work;
 - the times that he or she is required to work;
 - where he or she is required to work;
 - accommodate job share arrangements.
- 3.2 Any change agreed will be a permanent change to the employee's terms and conditions of employment, unless a trial or temporary period is agreed. Employees can request to work flexibly on either a temporary or permanent basis.
- 3.3 Managers and employees should be aware that any change in contract, for example a reduction in working hours or a re-allocation of duties, agreed as a result of a flexible working request could;
 - impact upon the salary which will be on a pro-rata basis;
 - impact upon annual leave which will be on a pro-rata basis;
 - have pension implications;
 - impact upon the grade of the role (where duties are amended by agreement).

Please consult HR Advisors and HR Pensions Team for further information.

4.0 Timeframe for considering flexible working requests

- 4.1 Flexible working requests should be considered and fully responded to in a timely manner and normally no later than 6 weeks from the manager receiving the request.
- 4.2 Employees have a right of appeal against a rejection of their flexible working request and the appeal must be considered and responded to no later than 3 months from the manager having received the initial flexible working request from the employee.
- 4.3 If a manager considering the original request or the appeal is reasonably unable to do so within the timescales specified above in 4.1 and 4.2, they may agree in writing with the employee to an extension.

5.0 Process for requesting and considering flexible working (as at appendix 1 – process flowchart)

- 5.1 Employees should make a written application by completing Part A of the Flexible Working Application Form and submit this to their line manager. Employees are encouraged to submit their applications well in advance of the date that they would like the flexible working arrangement to commence as it may take up to a number of months to consider the request fully including any subsequent appeals process.
- 5.2 The application will be deemed to have been made on the date the employee's manager receives it. The manager should date and acknowledge receipt of the submitted application in writing by completing Part B of the Flexible Working Application Form.
- 5.3 Following receipt of a written request the manager should arrange a meeting with the employee to discuss the request. If the manager intends to approve the request, a meeting may not be required. Employees should normally be made aware of the meeting in writing at least 5 working days in advance and this should inform them of their right to be accompanied by either a Trade Union representative or a work colleague – template letter 1 can be used to notify employees of an arranged meeting. Advance notice of such meetings can be waived by mutual agreement.
- 5.4 If the employee fails to attend an arranged meeting to discuss the application, a subsequent meeting should be agreed. If the employee fails to attend the rearranged meeting without good cause, the manager will treat the request as having been withdrawn.
- 5.5 The discussion can be held without the need for a face to face meeting (e.g. telephone call) if mutually agreed by both parties.
- 5.6 The discussion provides an opportunity for the manager to explore with the employee exactly what changes they are seeking and how these might be accommodated. The discussion also allows the employee to explain the reasons why they are seeking the

change (if they choose to disclose this) and to expand upon any points within their application including any alternative working patterns they would consider. The meeting may also provide an opportunity for the manager to propose alternative working patterns if appropriate, as well as discussing the option of trial periods with the employee.

- 5.7 Following the meeting the manager should consider the request carefully looking at the benefits of the requested changes for the employee and the business and weighing these against any adverse business effects of implementing the changes. Requests to work flexibly must be considered fairly and objectively and should only be refused where there are business reasons for doing so; these are set out in legislation as follows;

- the burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to recruit additional staff
- inability to reorganise work among existing staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the period the employee proposes to work
- planned structural changes

Managers are under no obligation to agree flexible working requests if they cannot be accommodated by the business on the business grounds listed above.

- 5.8 The manager should confirm their decision in writing to the employee as soon as practically possible and normally no later than 6 weeks after having received the initial request, using template letter 2. The manager should provide a copy of this letter together with the completed application form (parts A, B) to Human Resources for all approved and rejected requests, so a copy can be placed on the employees personnel file.

6.0 Appeal process

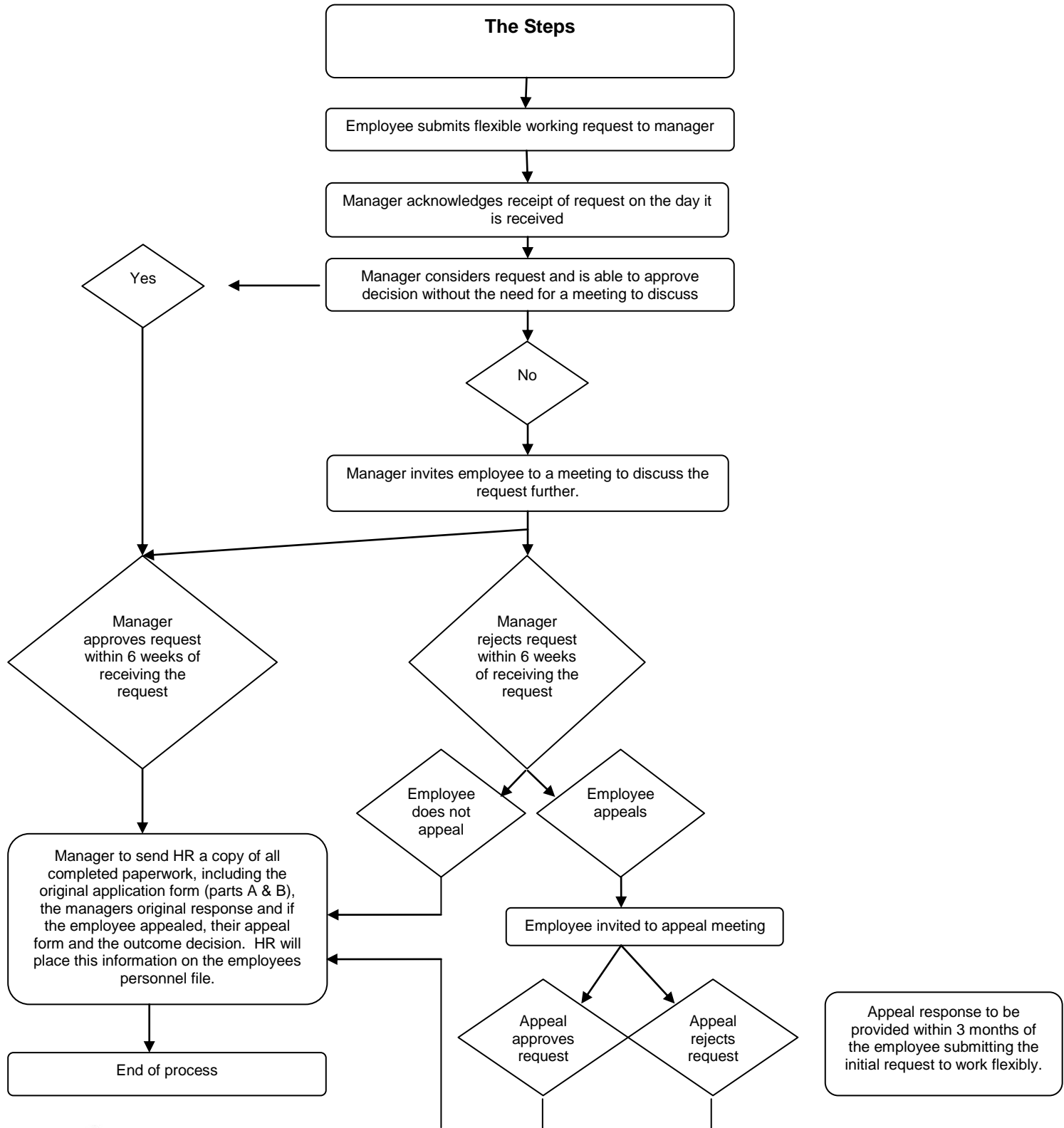
- 6.1 An employee has the right to appeal against a rejection of their flexible working request. Should the employee wish to exercise this right, they should complete the Rejection of Flexible Working Appeal Form and submit this to their line manager within 10 working days of the date of the written outcome.
- 6.2 The appeal will be considered by another manager within the Council, this will normally be the deciding manager's line manager or an alternative manager from within the Service Area or Directorate. The manager hearing the appeal will convene a meeting with both parties to discuss the application and the rejection rationale including any new information not available at the time of the original request being made.

- 6.3 Employees should be made aware of the appeal meeting in writing at least 5 working days in advance and this should inform them of their right to be accompanied by either a Trade Union representative or a work colleague – template letter 3 can be used to notify employees of an arranged meeting. Advance notice of such meetings can be waived by mutual agreement.
- 6.4 If the employee fails to attend an appeal meeting, a subsequent meeting should be agreed. If the employee fails to attend the rearranged meeting without good cause, the appeal will be considered to have been withdrawn.
- 6.5 The manager considering the appeal should confirm their decision in writing to the employee as soon as practically possible and no later than 3 months after the initial request to work flexibly was submitted, using template letter 4 (unless an alternative timeframe has been agreed in writing). A copy of the appeal decision must be provided to the employee's manager. The employee's manager must send a copy of all completed paperwork, including the original application form (parts A, B), management's original response letter, the employee's appeal form and the appeal decision letter to Human Resources for all approved and rejected requests, so a copy can be placed on the employees personnel file.
- 6.6 There is no further right of appeal, nor can the matter be raised under the Council's Grievance Procedure.



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Appendix 1 – Process flowchart



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