

FLEXIBLE WORKING POLICY

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INVESTOR IN PEOPLE



**Epping Forest
District Council**

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1. INTRODUCTION

- 1.1 All employees have the statutory right to ask to work flexibly which managers should consider fairly and on its own merits. A request can be refused where there are compelling business reasons. This guide explains the key features of these requests and the process that has been developed to implement it. The Policy also includes guidance on requests for Flexible Retirement.
- 1.2 Where a change is agreed, it will be a permanent variation of the employee's contract and there will be no automatic right to revert back to the former arrangement.
- 1.3 This procedure does not apply to volunteers, casual or agency workers.
- 1.4 Further details on Homeworking can be found in the Homeworking Policy and information on the Pension Scheme can be found in the Pension Policy both are on the intranet.

2. FLEXIBLE WORKING

- 2.1 Flexible working involves changing work patterns to allow employees to balance the needs of their home and work lives. Changes that may be requested relate to working hours, times of working and place for work.
- 2.2 Flexible working incorporates a wide variety of working practices - most people are familiar with working part-time for reduced pay, or working different shift patterns.
- 2.3 Other ways of working include the following:
 - Annualised hours: working time organised on the basis of the number of hours to be worked over a year, rather than a week. Pay will depend on the hours worked each pay period;
 - Compressed hours: involves working the total number of agreed hours over a shorter period. For example, working full-time hours over four rather than five days. Full-time pay would be paid but no overtime for the agreed extra hours worked each day;
 - Flexitime: employees choose their working hours (subject to the requirements of the service) outside agreed core hours as long as sufficient hours are worked in total, within an agreed period;
 - Job-sharing: involves two people working part-time to undertake a full-time post and requires hand-over arrangements to ensure continuity;
 - Shift working: involves working outside the normal 9 a.m. to 5 p.m. working day in an agreed pattern;
 - Staggered hours: allows staff to alter their start and finish times.
 - Term-time working: allows staff to take unpaid leave of absence during the school holidays. Salary is paid throughout the year, but at a lower level to reflect the fact that less than 52 weeks are worked per annum.

- 2.4 Other arrangements could include;
- Permanent Homeworking. (See the Council's Homeworking Policy)
 - Permanent Mobile/Home Worker: There is a mobile element to the role where work can be delivered out of the office and the home environment is suitable for work.
 - Permanent Mobile/Office: There is a mobile element to the role where work is delivered out of the office but there is some requirement for office presence.
 - Fixed Home Working Pattern: The role demands some office presence and the home is suitable for working on specific days.
 - Ad hoc Home Working: The role demands office presence for the majority of the time but the role can be delivered to the same standard by introducing an element of flexibility.
 - Roaming Office: The role demands an office presence but not a fixed location.
 - Workplace not Office - Location based Working: Face to face service delivery out of the office environment.
- 2.5 Nothing in this Policy or Framework stops managers discussing the options in para 2.4 with their employees, even if no request has been made by the employee.
3. **ELIGIBILITY**
- 3.1 Employees will be entitled to request flexible working if they have:
- 26 weeks continuous service with Epping Forest District Council at the date of application;
 - not made a request to work flexibly in the previous 12 months. Unless their role has materially changed since the previous request or the employee has changed role.
- 3.2 The employee should state on the application form if they are making a request to work flexibly in relation to the Equality Act 2010, for example as a reasonable adjustment for a disability or caring responsibilities. However, when work is being carried out in the home it will not be appropriate to combine home working with the care of dependents during working hours, the 'roles' must be kept separate otherwise the request will not be agreed.
- 3.3 Only one application can be made per year regardless of whether a previous application was made in respect of a different reason.
- 3.4 If the employee's application is accepted, then the change will be permanent and the employee will not have an automatic right to revert back to their previous working pattern.

4. FLEXIBLE RETIREMENT

4.1 For employees requesting flexible retirement the eligibility criteria set out in paragraph 3.1 does not apply. Employees who are active members of the Local Government Pension Scheme (LGPS) from age 55 can request that the Council considers a flexible retirement request if:

- There has or will be a permanent reduction in their working hours by at least 25%, and/or
- There is a reduction in grade (but not as a result of job evaluation or redeployment), and
- The application is received within 3 months of the change in hours and/or grade, and
- There are no associated costs for the Council.

4.2 Agreement to any flexible retirement request will be determined by the Assistant Director/manager, based on service need, existing arrangements and the role in question.

4.3 An employee will not be permitted to exercise a second flexible retirement option.

4.4 Once a flexible retirement request has been received the manager will request that payroll liaise with the Essex Pension Fund to ensure there is no cost to the Council. As this process can take up to 1 month employees and managers need to factor this into any timescales.

4.5 If there is a cost to the Council i.e. financial strain, whatever the amount, the Assistant Director/manager will refuse the request.

4.6 The Council will not waive any reduction to an employee's pension as a result of a successful flexible retirement request.

4.7 Employees can continue paying into the LGPS on their reduced hours or new role, building up a new pension fund in the scheme. (For further information please refer to the Council's Pension Policy and the Discretionary Powers Policy Statement attached to the Pension Policy).

4.8 There will be no right of appeal to the Council against a refusal to agree a Flexible Retirement request on the basis of financial strain (i.e. cost) to the Council.

5. MAKING AN APPLICATION

5.1 For all Flexible Working/Retirement applications employees must apply to their manager using the Flexible Working/Retirement Application Form. Setting out their desired working pattern/arrangements, the benefits to the Council and arguments why it can be implemented. Also what effect they think the requested change would have and how, in their opinion, any such effect might be dealt with.

- 5.2 An application will be taken as having been made on the day that it is received by the manager and should be date stamped accordingly.
6. **CONSIDERING THE APPLICATION**
- 6.1 Managers must consider and complete any Flexible Working/Retirement request within 3 months of receipt of the request, including any appeal.
- 6.2 Managers must seriously consider an employee's request, approaching it positively and sympathetically whilst recognising the need to provide an effective and efficient service, also considering existing arrangements of the team and the role in question. Managers can consider whether or not there is a compelling business reason to refuse the request (see para 6.7).
- 6.3 In order to give full consideration to a request, managers should meet with their employee to discuss the proposed changes, how they might work and to consider alternatives, if necessary. This meeting should be held as soon as possible after receipt of the application. However, a discussion may not always be necessary if the manager is happy to accept a request. But it may be helpful to discuss the request to ensure the proposal is the best solution for both the Council and employee.
- 6.4 An employee may have a representative of their choice to accompany them to the meeting.
- 6.5 Before the manager agrees to the request or an alternative with the employee, they must discuss and obtain agreement from the Assistant Director. If agreed the manager will inform the employee by completing the Flexible Working/Retirement Application Acceptance Form. This form must be returned to the employee as soon as possible after the meeting. A copy should also be sent to HR, so that any contractual changes can be actioned, who will notify Payroll so that any grade or salary changes can be made.
- 6.6 Before the manager refuses a request or an alternative they must discuss with the Assistant Director. If the refusal is agreed the manager must inform the employee by completing the Flexible Working/Retirement Application Refusal Form. The manager must set out the clear business reasons for the refusal and how they apply to the application. This form must be returned to the employee as soon as possible after the meeting. A copy should also be sent to HR.
- 6.7 Care must be taken by the manager to clearly identify the business reason(s) for refusing the application which can only be valid if it is one (or more) from the following list:
- Burden of additional costs;
 - Detrimental effect on ability to meet customer demand;
 - Inability to reorganise work amongst existing staff;
 - Inability to recruit additional staff;
 - Detrimental impact on quality;
 - Detrimental impact on performance;
 - Insufficient work during the periods the employee proposes to work;
 - Planned structural changes.

- 6.8 There may be instances where the manager is unsure as to whether the arrangements requested are sustainable. In these cases, it will be possible to agree to Flexible Working for a temporary or trial period rather than refusing the request. In these circumstances review dates must be discussed and arranged. Any arrangements must be put in writing using the Flexible Working/Retirement Application Acceptance Form.
- 6.9 There may be occasions when a manager receives more than one request to work flexibly. If it is not possible to grant all of the requests they should be considered in the order they are received. Having considered and approved the first request managers will be aware that the service context has changed which can be taken into account when considering subsequent requests along with the business reasons in para 6.7.
- 6.10 Managers are not required to make value judgements about the most deserving request, each case will be considered on its merits. However, a manager may discuss the situation with employees to see if there is any room for adjustment or compromise before making a decision.

7. **THE APPEAL PROCESS**

- 7.1 If the employee disagrees with the manager's decision to refuse their application, they may appeal to their Director. If the employee making the appeal reports directly to a Director, another member of Management Board will consider it. If the Chief Executive or Director wishes to appeal it will be heard by members.
- 7.2 The appeal must be made in writing using the Flexible Working/Retirement Appeal Form and must be submitted to HR within 10 working days of receipt of the Flexible Working Application Refusal Form.
- 7.3 Upon receipt of the Appeal Form HR will arrange to:
- Provide a copy to the Director or Member Panel;
 - Provide a copy to the employee's line manager and obtain all the case paperwork from them;
 - organise an appeal hearing by the Director within 15 working days of receipt of the Appeal Form
 - organise a Member Panel, in the case of the Chief Executive/Directors, within eight weeks of the receipt of the Appeal Form.
- 7.4 However, the Director considering the appeal may decide to uphold the appeal without holding a hearing. If so, they must inform the employee and their manager within 10 working days of the receipt of the Appeal Form, in writing.
- 7.5 This letter should also be copied to HR so that an amended contract of employment can be issued.
- 7.6 If an appeal hearing is required it will be arranged at a time and place convenient to both parties. It will be attended by:

- The Director hearing the appeal ("the Appeal Hearing Officer");
 - The employee's manager who refused the request;
 - The employee;
 - A representative of the employee's choice, if required (see section 9 below).
- 7.7 Both parties will be given an opportunity to submit their views on the matter and answer questions from the Hearing Officer, if required.
- 7.8 The Hearing Officer will notify the employee and the manager, of their decision, within 10 working days of the appeal meeting. The notification will be in writing and a copy will be sent to HR. The decision will be final and the procedure will end here. There will be no right to raise a grievance under the Council's Grievance Procedure.
- 7.9 There will be no right of appeal against a refusal to agree a Flexible Retirement on the basis of cost to the Council.
- 8. EXTENSIONS TO TIME LIMITS**
- 8.1 Any Flexible Working/Retirement request must be considered and completed within 3 months of receipt of the request, including any appeal. However, cases may arise where the time limits are not practical and an extension(s) may be required. Time limits can be extended with the agreement of both parties. This will be confirmed in writing by the line manager or Hearing Officer, after having discussed the extension and the reasons for it, with the employee.
- 8.2 A copy of any letters/emails agreeing extensions will be sent to HR for filing.
- 8.3 A time limit extension will automatically apply where the manager is absent on annual leave or sick absence when the application is received. If the manager is on long term leave or sickness absence the Assistant Director/Director will decide if another manager deals with the request.
- 9. THE RIGHT TO BE ACCOMPANIED**
- 9.1 The employee has the right to be accompanied, at the initial meeting and at the appeal meeting, by a representative of their choice.
- 9.2 The representative will be able to address the meeting and confer with the employee but may not answer questions on the employee's behalf.
- 9.3 If the chosen representative is unavailable for the proposed meeting, then the employee may request that the meeting be postponed. The meeting will then be reconvened to another date convenient to management and within 5 working days of the date that was first proposed. If this cannot be achieved, the employee should consider an alternative representative who can attend the meeting.

10. **WITHDRAWAL OF AN APPLICATION**

10.1 There are three reasons why an application may be treated as withdrawn:

(a) The employee decides to withdraw before the application is agreed

In this case, the employee must confirm their withdrawal, in writing to their manager. The manager will acknowledge receipt in writing either by email or letter, sending copies of all correspondence to HR for their records. Employees who withdraw an application will not be eligible to make another for 12 months from the date their application was made.

If an employee verbally withdraws their application but fails to confirm in writing, the manager will acknowledge the withdrawal in writing either by email or letter.

(b) The employee fails to attend two meetings

In cases where an employee fails to attend a meeting more than once without reasonable cause, their application will be considered as withdrawn.

The manager must confirm the withdrawal in writing either by email or letter.

(c) The employee unreasonably refuses to provide the required information

Again, the manager must confirm the withdrawal in writing either by email or letter.

11. **REQUESTS FOR CHANGES FOR A SHORT TERM PERIOD**

11.1 Employees requesting an informal change for a short period to their working hours or conditions, i.e. to cope with a bereavement or short term caring responsibilities should be discussed and agreed outside this Policy. However, the principles of the Policy and Guidance should be applied.

12. **REVIEW**

12.1 A review of this Policy will take place in December 2016.

13. **FURTHER GUIDANCE**

13.1 Further guidance on the operation, interpretation and application of the Framework is available from HR.

13.2 Where relevant, each of the Policies has its own HR and Manager Toolkit which provides additional guidance, template letters and aids. The Toolkits can be found on the intranet.