

RIGHT TO REQUEST FLEXIBLE WORKING POLICY

INTRODUCTION

The council recognises the contribution of all its employees and understands that, at some time in their working lives, employees may wish to work more flexibly. All employees with at least 26 weeks' continuous service have the statutory right to apply for flexible working. Flexible working is about reviewing employees' working patterns or location to see whether it is possible to implement different arrangements. Any arrangements must, however, always consider the need for the council to achieve its core business purpose as efficiently as is possible.

A request for flexible working can be a request to **permanently** change:

- ✓ The number of hours the employee works
- ✓ The times at which the employee is required to work
- ✓ Where the employee works, usually a request to work fully or partly from home.

The request could include shorter working hours, shorter working week, compressed hours, annualised hours and job sharing. Employees should be aware that if they request and are granted flexible working, this represents a **permanent** variation to their contract of employment. In certain circumstances, however, the organisation may agree to the change on a trial basis. If an employee's circumstances subsequently change in relation to the need for flexible working, there is no statutory right for a return to the terms and conditions that applied prior to flexible working being granted.

This policy should not be confused with the Hybrid Working Policy which allows staff, if their job role permits, to work from home or alternative locations where the employment contract does not change.

PURPOSE

The purpose of this document is to provide guidance on handling the statutory right to request flexible working.

SCOPE

This policy applies to all Hinckley and Bosworth Borough Council employees.

EQUALITIES

The council's commitment to equality of opportunity will be always be observed during the operation of this policy. This will ensure that employees are treated fairly and without discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity race, religion or belief, sex, and sexual orientation.

PROCEDURE

Eligibility

To be eligible to make a request for flexible working, a person must satisfy the following conditions. They must:

- ✓ Be an employee
- ✓ Have worked for the council continuously for at least 26 weeks as at the date the application is made
- ✓ Not have made another application to work flexibly during the previous 12 months.

Making a request

An application for flexible working must be in writing and include the following information.

1. The date of the application.
2. The change to working conditions the employee is seeking and when they would like this change to come into effect.
3. The effect, if any, the employee thinks the requested change will have on the council and how, in their opinion, any such effect might be dealt with.
4. A statement that it is a statutory request, and when they have made a previous application for flexible working.
5. If your request relates to something covered by discrimination law (Equality Act 2010), for example to make a 'reasonable adjustment' for a disability you may have.
6. The application should be signed and dated.

Meeting and discussion

7. Following receipt of a valid written request for flexible working, the employee's line manager will arrange a meeting with them to discuss their request and will consider the request reasonably within a reasonable timetable.
8. All requests will be decided, including any appeal, within three months of first receipt of the request, unless an extension of time is agreed.
9. The employee has the right to be accompanied at any meeting set up to discuss their flexible working request by a trade union representative or work colleague.
10. The employee's request will be considered carefully weighing the benefits of the requested changes in working conditions against any adverse business impact of implementing the requested changes.
11. Once the employee's manager has decided on the request, the employee will be informed of this in writing as soon as is reasonably possible.
12. If the request is successful, or subject to certain modifications, the manager will discuss with the employee how and when the changes might best be implemented.

Determining the application

When determining whether the request can be accommodated, the manager will need to carefully consider what the benefits will be to the employee and/or the council and weigh these against any potential adverse impacts. Any concerns the manager may have should be explored with the employee and their response to these issues obtained. It may also be appropriate to discuss alternative arrangements which could be accommodated or the

possibility of either trialling or agreeing to the request on a temporary basis. It is recommended that the trial period should be approximately three months.

There may be occasions where a manager receives several flexible working requests close together, the manager is not required to make a value judgement as to which request is most deserving and should consider each case on its merits, looking at the business case for granting the request and the possible impact of refusing it. Where it is not possible to agree all requests, the manager may wish to ask each employee whether any compromise could be made before coming to a decision. Advice is available from Human Resources.

If several employees already work flexibly and agreeing to a further request would have a negative impact, the manager may ask if anyone would be willing to change their working arrangements so that a new request could be accommodated.

Agreeing to the request

If the request is agreed, then the employment contract needs to be changed. Please inform Human Resources and the relevant paperwork will be drafted.

Rejection of the request

If the request for flexible working is declined, it will be for one or more of the following reasons (as set out in the legislation).

- ✓ A detrimental effect on ability to meet customer demand
- ✓ 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
- ✓ Insufficient work for the periods the employee proposes to work
- ✓ A planned structural change to the business

When considering whether to decline a request it is important that managers remember that this should only be done where there is evidence available to support this decision. This evidence will need to be provided as part of the appeal process. Advice is available from Human Resources on the potential risks of declining a request.

The employee should be advised of the outcome in writing as soon as possible and a copy retained on their personal file. Human Resources will draft a letter stating the business reasons above and a detailed explanation as to how these apply to the employee's request. The employee should also be offered a right to appeal.

Appeal

An employee can appeal against a decision to refuse their request for flexible working. Any appeal should be submitted to the HR Manager, in writing, within 10 working days of receiving the decision letter and should include grounds of appeal (i.e. the request has been refused for a reason outside the business reasons above or the decision was made on incorrect information). The appeal must be heard and concluded within three months of the date on which the employee submitted their flexible working application, unless an extension has been agreed with the employee and confirmed in writing including reasons for the delay.

Appeals will be heard by the next level of management and a HR representative. The decision maker will either:

- Uphold the original decision to decline the request. The outcome letter should include the grounds/reasoning on which this decision was reached.
- Overturn the original decision to decline the request. This may result in the implementation of the employee's original request or an alternative which can be accommodated by both parties. The outcome letter should include details of the new working arrangements.

Employees have the right to be accompanied by a work colleague or trade union representative. If the employee is unable to attend on the arranged date, an alternative should be proposed.

If an agreement cannot be reached through the appeal process and you want to take further action, please refer to the council's Disciplinary and Grievance Policy.