

**Report for:** Staffing & Remuneration Committee, 6 February 2020

**Item number:**

**Title:** Flexible Working Policy Review

**Report authorised by:** Richard Grice – Director of Customers, Transformation and Resources

**Lead Officer:** Ian Morgan, Reward Strategy Manager

**Ward(s) affected:** N/A

**Report for Key/  
Non Key Decision:**

## **1 Describe the issue under consideration**

- 1.1 Policies are not statutes or straightjackets for the reaching of judgments. Rather, the purpose of policy is to enable employers to exercise discretion fairly and lawfully and to provide employees with a degree of certainty as to how that discretion will be exercised.
- 1.2 As part of the council's requirement to conduct a rolling review of all HR policies, Members are asked to consider the revised Flexible Working Policy (attached as Appendix 1) and Practice Notes (attached as Appendix 2).

## **2 Cabinet Member Introduction**

- 2.1 Not applicable.

## **3 Recommendations**

- 3.1 That the Committee approve the new Flexible Working Policy and Practice Notes ready for implementation with effect from February 2020. These changes will be communicated to staff in February 2020.
- 3.2 That the Director of Customers, Transformation and Resources and the Chair of Staffing and Remuneration committee to be delegated the power to make minor changes to the policy and practice notes without the need to refer to committee.

## **4 Reason for Decision**

4.1 The policy currently in use was introduced in October 2012. As a key policy it is important to take on board the lessons learned from six years of operation and have a policy that more accurately reflects the organisational changes which have taken place, and captures current thinking with regard to good HR practice. Flexible working has become common practice for many employers, including the council, and as such its important that our policies in this area are up to date and fit for purpose.

## **5 Alternative options considered**

5.1 The rolling review of HR policy is a requirement of the Internal Audit recommendations.

## **6 Background information**

6.1 The policy applies to all council employees, except those teachers directly employed by the council and all staff appointed by schools operating under local management of schools, which have their own procedure.

6.2 Flexible working can aid recruitment and retention, help reduce absenteeism and improve morale, while tailoring working practices around workload requirements.

### **6.3 Key aspects of the policy**

- a. The policy clarifies our statutory provision to allow staff to apply for flexible working and the process of doing this.
- b. In addition to our statutory requirements, the policy articulates a number of flexible working practices that staff might utilise in fulfilling their role:
  - Working Location
  - Working Hours
  - Voluntary Changes in Hours
  - Term time working / Seasonal Working
  - Annualised Hours
  - Compressed Working
  - Part-time Working
  - Job Sharing
  - Self-rostering
  - Swapping hours / Shifts
  - Sabbatical
- c. The policy and practice notes convey the council's commitment to retaining talent and being as flexible as possible such that staff are able to find a work / life balance.

- d. The policy also covers flexi-time and TOIL.
- e. In order for flexible working practices to be effective, the practice notes provide full guidance on role and responsibilities and the procedures for implementing. This allows for manager to implement the policy with confidence and discretion to ensure it applied for their staff in the most appropriate way.

**7 Contribution to strategic outcomes**

Not applicable.

**8 Statutory Officers' comments**

**8.1 Chief Finance Officer**

There are no direct financial implications arising from this report.

**8.2 Assistant Director of Corporate Governance**

The Assistant Director of Corporate Governance has been consulted in the preparation of this report. Legal Services has been involved in reviewing the proposed Flexible Working Policy and confirms that it complies with all relevant legislation.

**9 Use of Appendices**

Appendix 1 – Flexible Working Policy

Appendix 2 – Flexible Working Practice Notes

**10 Local government (Access to Information) Act 1985**

Not applicable.

## **Appendix 1 – Flexible Working Policy**

December 2019

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**1. Purpose**

The council is committed to providing high quality services through continuous improvement. This requires the council to respond quickly by adapting work patterns, redesigning jobs and creating a more flexible workforce. The flexible working policy sets out a framework to provide employees with more choice about where, when and how to do their jobs and achieve the outcomes required.

## **2. Scope**

The policy applies to all council employees, except those teachers directly employed by the council and all staff appointed by schools operating under local management of schools, which have their own procedure.

## **3. General Principles**

'Flexibility' and 'flexible work' are terms used to describe a wide range of work styles and employment practices. This includes any employment arrangement which differs from traditional working hours or a set location. Increased focus on work-life balance is becoming more highly valued by many employees who now want and expect increased flexibility over other benefits.

### **3.1 Aims of the Policy**

Modern flexible working is about looking at how we make better use of the space and technology available to us. It's about finding the best way to deliver services to our customers and, in doing so, build a responsive, efficient and productive organisation. Therefore, flexible working practices are to be the way the council approaches achieving these objectives.

Flexibility of working hours can aid recruitment and retention, help reduce absenteeism and improve morale, while tailoring working hours around workload requirements. Flexible working hours can be especially advantageous for those with caring responsibilities, or those who commute long distances.

### **3.2 Statutory Provision**

Most employees are now able to work flexibly as standard working practice, and therefore it is not necessary to formally request flexible working in most situations.

However, all employees with at least 26 weeks' continuous employment have a statutory right to request a specific flexible working arrangement. Managers have a statutory duty to consider a request in a reasonable manner and can only refuse a request for flexible working where there is a clear business reason for doing so.

### **3.2.1 Process for requesting flexible working**

Employees should make a considered application in writing to their line manager.

Employees are only able to make one application a year under the right, and accepted applications will mean a permanent change to the employee's own terms and conditions of employment unless otherwise agreed between both parties.

Within 28 days of receiving the request, the manager must arrange to meet with the employee. The employee can, if they wish, bring a staff representative to a flexible working meeting.

Within 14 days after the date of the meeting the manager must write to the employee to either agree to a new work pattern and a start date, agree to a trial period, or to provide clear business grounds as to why the application cannot be accepted and the reason why the grounds apply in the circumstances and set out the appeal procedure.

All time periods can be extended where both the manager and the employee agree. Any extensions must be recorded in writing by the employer and copied to the employee.

Managers should contact HR if they require advice and guidance on implementing this policy and procedure.

### **3.2.2 Appeal procedure**

This policy provides an employee with the right to appeal against their manager's decision within 14 days of being notified.

If an employee wishes to appeal, they should write to the Director of their service within 14 days of receiving the written notification of the decision, setting out the reasons for the appeal

The Director will then arrange for the appeal to be heard by an appropriate Manager who has had no prior involvement in the case. The appeal hearing will be a review of the decision.

The individual will have the right to attend the hearing accompanied by trade union official or work colleague. The manager who made the initial decision regarding the request may also attend if appropriate.

The decision may be given at the appeal hearing and will in any event be confirmed in writing within fourteen days of the hearing. The decision following the appeal shall be final.

### **3.3 Staff Representation**

Individual employees, or groups of individuals, are entitled to ask a trade union official or work colleague to represent them at any point in the process. The employee's chosen companion should be allowed to address the meeting to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The companion does not, however, have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the council from explaining their case.

## **4. Working Practices**

A great deal of flexibility exists on working hours across the council, and the council wishes to support and encourage such an approach where possible. Most arrangements, such as changes to start and finish times, can often be negotiated locally without the requirement for a formal flexible working request. However, individuals still have the statutory right to submit a formal application if it is not possible to accommodate this within normal flexible working arrangements.

### **4.1 Working Location**

Roles within the council are able to adapt to working remotely either on a regular basis or when a particular task needs completing (for example, writing a report), which could be undertaken more easily in a quieter home/alternative office environment.

N.B. Remote working is not a substitute for suitable care arrangements and dependants should always be looked after by someone other than the employee during working hours.

### **4.2 Working Hours**

We have a large amount of flexibility in how an employee's hours are worked, the principle that will operate in any of the alternative flexible working arrangements is that you are still required to work your contractual hours.

#### **4.2.1 Voluntary Changes in Hours**

This arrangement enables employees to change the number of hours worked by either:

- Reducing working hours (voluntary reduced working time)
- Splitting a full-time job into two part-time jobs (see job share)
- Increasing them, by coupling two or more part-time jobs, or adding additional hours to their current contracts

This arrangement may be permanent or temporary. A temporary change could be used as a trial period to test, from both sides, the desirability of a permanent change.

#### **4.2.2 Term time working / Seasonal Working**

As an initiative to promote work-life balance, term time working is usually an arrangement of hours that enables parents to spend more time with their children through unpaid leave over the school holidays. It also supports parents who have difficulties arranging care that complements school opening hours.

Seasonal working is where the member of staff is engaged to work for less than 52 weeks per year, but the weeks that they do not work can fall at any time of the year (rather than necessarily during school vacations). For instance, there may be occasions during the academic year when workload is higher than during other times during the year, (for example, around the examinations period). Seasonal adjustments to time worked during this period may help.

It is important that members of staff engaged on a term time or seasonal basis are clear about their work pattern.

#### **4.2.3 Annualised Hours**

Annual hours contracts can 'average' full- or part-time employment across the period of a calendar year. This flexible method of employment ensures that the individual works at those times most suited to the workload requirements.

Annualised hours is a system where an employee's hours are totalled over a long period of months, usually a year. Employees work more or less hours each week as agreed, usually fitting in with seasonal peaks and troughs of the service, up to the annual maximum. A full-time employee working a standard 36-hour week has an annualised equivalent of 1872 hours, based on 52 weeks.

While the increased flexibility can be beneficial to the manager and the employee, it should be recognised that too great a degree of uncertainty in relation to work pattern



can be stressful and even impractical to potential employees, so patterns should be specified as far as possible.

#### **4.2.4 Compressed Working**

Compressed hours may be useful for staff who wish to continue to work current total hours and retain current benefits but would prefer to compress the hours into a shorter working week or fortnight. An example is a 'nine-day fortnight' with 10 days' worth of hours worked over nine slightly longer days, allowing one day off per fortnight.

It is important that any compressed hours arrangement does not have an adverse impact on service provision or operational requirements and does not increase the workload of other colleagues.

#### **4.2.5 Part-time Working**

A part time employee is defined as any employee who is contracted to work less than the basic full-time contractual hours i.e. less than 36. Part time working can take various patterns, including part day, part week and part year.

#### **4.2.6 Job Sharing**

Job sharing is a way of working where two or more people voluntarily share the duties of a full-time post with the hours, pay, holidays etc. divided on a pro-rata basis. There are 2 common types:

- Shared responsibility – the 2 employees share all the responsibilities of one full time job each performing the full range of duties picking up where the other left off. This is best suited to ongoing work rather than project-based work.
- Divided responsibility – the responsibilities of one full time position are divided between two people, although they may also provide back up for each other as required. This is best suited to work which can easily be divided up e.g. project work.

In all instances, there should always be a written agreement on how to meet the full expectations of the job.

#### **4.2.7 Self-rostering**

Conventional rostering represents a job with working patterns decided by the manager. Self-rostering means agreeing the staffing levels and skills mix required at any time in the day, then giving staff the ability to schedule their working day collectively to meet these requirements, within a managed framework.

#### **4.2.8 Swapping hours / Shifts**

Procedures to enable swapping hours (sometimes called shift swaps) enable employees to exchange hours with colleagues doing the same type of work at different times of the day.

#### **4.3 Flexi Time**

Provided that flexible working helps and improves service delivery and enables the council to achieve its objectives, the council is keen to encourage the use of flexi time working where other forms of flexible working practices are not able to be carried out.

The council seeks to foster a culture of trust and respect between staff and management and encouraging employees to be responsible in the way they administer flexi time and to act in accordance with this policy.

- Within the flexitime scheme, attendance should be kept between 8:00am and 6:00pm. These are the hours which qualify as flexitime. The core working time period is 9:45am to 3:30pm, this does not include the lunch break. Any hours that exceed this should be considered under the TOIL scheme.
- A lunch break of between 30 minutes and 1 hour must be booked each day. TOIL may not be booked for time not taken. With the prior agreement of the manager, a lunch break between 1 – 2 hours may be taken.

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

The council recognises that there will be employees who are required to work in excess of their regular working hours which needs to be compensated.

- TOIL hours are accrued for time worked in excess of an employee's normal working hours. Hours worked after 8:00am and before 6:00pm are to be counted as flexi time.
- TOIL also should not be used to replace a 'working lunch'. between the hours of 12noon – 2pm. The council's flexitime scheme allows for a minimum of 30 minutes to 1-hour lunch breaks, with a maximum of 2 hours subject to prior agreement with the employee's line manager.
- It is the responsibility of the employee to organise their workload so that usual duties and/or attendance are carried out within normal weekly contractual hours where possible. Managers also have a responsibility to support their team in managing workloads.

- The equivalent of 2 TOIL days (14hrs 24 mins FTE, pro-rated for part-time staff) may be taken on one occasion at a time, and should ideally be taken within a month of accrual. The employee must seek management approval before taking any TOIL, the same as the annual leave approval process.

With the agreement of the Manager where there are exceptional circumstances pertaining to an individual or there are service needs where TOIL cannot be taken readily, if the employee has sufficient accumulated hours, conversion to Annual Leave may be considered in order to 'bank' the TOIL hours to be taken at a later date. It must be stressed that this should only take place in exceptional circumstances and staff should not be encouraged to accept 'banking' of TOIL hours as Annual Leave to be taken at a later date in preference to taking the time off as and when accrued (subject

## **Appendix 2**

# **Flexible Working Practice Notes**

December 2019

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## **1. Introduction**

The flexible working policy and practice notes aims to support greater flexibility for council employees. This policy provides the framework, defining the different types of flexible working and how they might be availed of by employees.

With the shift in emphasis towards increased work-life balance in conjunction with job satisfaction, greater flexibility in the workplace has been a main feature in this approach. The council supports everyday flexibility as a normative working practice, this means that flexible working should not only be practiced but encouraged widely.

Flexible working is part of the council's strategy to be able to react more efficiently and flexibly in its service delivery. This by use of dynamic technology and modern employment practices, thus allowing greater flexibility in work patterns.

## **2. Scope**

The policy applies to all council employees, except those teachers directly employed by the council and all staff appointed by schools operating under local management of schools, which have their own procedure.

## **3. Roles and Responsibilities**

### **3.1 The Role of The Individual**

- to enter into the spirit of flexible ways of working and remember that increased flexibility brings a greater responsibility to co-operate with colleagues and managers
- take responsibility for agreeing an appropriate way of working to achieve the task
- comply with health and safety requirements and undertake the appropriate assessments required
- carry out necessary actions to minimise risk and maintain safe working conditions
- adhere to council policies and procedures, in particular HR, Health and Safety and Information Technology, Data protection and confidentiality procedures
- attend council offices when requested to be present at meetings and/or other events.

### **3.2 The Role of The Line Manager**

- implement new ways of working in a fair and consistent way
- make employees aware of other related policies or guidelines and the responsibilities within them
- engage in discussions in an open and constructive way to agree new ways of working which are focussed on service needs
- agree appropriate contact arrangements for any employee who undertakes new ways of working
- encourage employees who work more flexibly to attend team meetings as appropriate

### **3.3 The Role of The Staff Representative**

- represent or accompany employees at flexible working meetings.
- at meetings, address the meeting to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting.
- they cannot answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the council from explaining their case.
- prioritise meetings and maintain confidentiality.

## **4. Working Practices**

A great deal of flexibility exists on working hours across the council, and the council wishes to support and encourage such an approach. Regular flexible working is a supported practice. However, if further provisions are required which fall outside of regular flexible working individuals still have the statutory right to submit a formal application if they wish. Whether your team operates a formal or an informal system, it is important that the following considerations are taken into account:

- The needs of each team will vary over time. Ensure that any scheme you introduce is appropriate to the current situation and includes a mechanism for review.
- Regular remote workers should try, as much as possible to vary their remote working days. A fixed 'remote working day' needs to have been agreed in writing.
- Ensure that staff are aware that flexibility is dependent upon the operational needs of the team.

- If some staff are offered different levels of flexibility than others, ensure that this is justifiable. Explain clearly the reasons and consider the impact of flexibility on other colleagues in the team.
- A record must be kept of all changes, both informal and formal.

## **4.1 Working Location**

The council supports and encourages working remotely, providing the environment and tools for all parties to benefit from adopting these practices.

Roles within the council are able to adapt to working remotely either on a regular basis or when a particular task needs completing (for example, writing a report), which could be undertaken more easily in a quieter environment.

Employees should:

- complete the Remote Working Checklist (a copy of which can be found on the HR Intranet pages <http://intranet/shared-service-centre/human-resources/hr-policies-and-procedures-library>)
- Complete the Haringey Council Home Working Health and Safety Checklist (a copy of which can be found on the HR Intranet pages <http://intranet/shared-service-centre/human-resources/hr-policies-and-procedures-library>)
- make available a room or area of their home for use as an office/working area
- have access to hot desks in the same location as their service area and across council buildings

## **5. Responding to a Request for Flexible Working**

### **5.1 The request**

A request from an employee under the Employment Rights Act 1996 and regulations made under it must be in writing and must include the following information:

- the date of their application, the change to working conditions they are seeking and when they would like the change to come into effect
- what effect, if any, they think the requested change would have on you as the employer and how, in their opinion, any such effect might be dealt with
- a statement that this is a statutory request and if and when they have made a previous application for flexible working

You should make clear to your employees what information they need to include in a written request to work flexibly.

### **5.2 What should you do with a request?**

Once you have received a written request, you must consider it. You should arrange to talk with your employee as soon as possible after receiving their written request. If you intend to approve the request then a meeting is not needed.

You should allow an employee to be accompanied for this and any appeal discussion and the employee should be informed about this prior to the discussion.

### **5.3 Discuss with employee**

You should discuss the request with your employee. It will help you get a better idea of what changes they are looking for and how they might benefit your business and the employee.

Wherever possible the discussion should take place in a private place where what is said will not be overheard.

### **5.4 Consider the request**

You should consider the request carefully looking at the benefits of the requested changes in working conditions for the employee and your business and weighing these against any adverse business impact of implementing the changes. In considering the request you must not discriminate unlawfully against the employee.

Once you have made your decision you must inform the employee of that decision as soon as possible. You should do this in writing as this can help avoid future confusion on what was decided.

If you accept the employee's request, or accept it with modifications, you should discuss with the employee how and when the changes might best be implemented.

If you reject the request it must be for one of the following business reasons as set out in the legislation:

- 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
- a detrimental effect on ability to meet customer demand
- insufficient work for the periods the employee proposes to work
- a planned structural change to your business

If you reject the request you should allow your employee to appeal the decision. It can be helpful to allow an employee to speak with you about your decision as this may



reveal new information or an omission in following a reasonable procedure when considering the application.

### **5.5 Deal with requests promptly**

The law requires that all requests, including any appeals, must be considered and decided on within a period of three months from first receipt, unless you agree to extend this period with the employee.

If you arrange a meeting to discuss the application including any appeal and the employee fails to attend both this and a rearranged meeting without a good reason, you can consider the request withdrawn. If you do so, you must inform the employee.