



Right to Request Flexible Working

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Revision History

Revision Date	Version Control	Summary of changes
26 th April 2022	V1	New policy

Key Signatories

Approvals Creation and Major Change

Name	Title	Approved
Appointment & Staffing		September 2022

Approvals Minor Change and Scheduled Review

Name	Title	Approved

Approval Path

Major Change

Originator
Owner
TULG
CMT
Appts & Staffing Committee

Action

HR
Head of Paid Service
Consultative Group
Corporate Approval
Council Approval

Minor Change

HR
TULG
Director

Submission
Consultative Group
Delegated Approval

Document Review Plans

This policy/ procedure will be reviewed on a 3 yearly basis unless it has:

- A monetary value included within it, in which case an annual review will be required, and/ or
- A legislative change is required as directed by government.

Distribution

The document is on Astute and is NON MANDATORY policy and will also be available on the Intranet and paper based copies.

Security Classification

This document is classified as SEC 1 Routine with access restricted to Tamworth Borough Council Staff and business partners.

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1 Introduction:

- 1.1 Tamworth Borough Council (TBC) is committed to equality and diversity and, where operationally viable, to support employees in their wish to work on a flexible basis.
- 1.2 Employees who have at least 26 weeks' continuous service with TBC have the right to make a statutory request to work flexibly. Under the statutory procedure employees can make one request in every 12-month period. The legislation pertaining to statutory working requests is part 8A of the Employment Rights Act 1996 and the Flexible Working Regulations 2014.
- 1.3 However, TBC recognises the importance of providing flexible working for all employees. Therefore, if you are not eligible to make a formal request for flexible working under the statutory procedure, you may submit an informal request to your line manager and this will be considered.
- 1.4 Examples of requests for flexible working include.
 - Reducing the number of hours you are working
 - Compressing your working hours into fewer days,
 - Entering into a job-share arrangement,
 - Work on different days of the week,
 - Be exempted from working on a particular day of the week,
 - Be exempted from shift working,
 - Move from night shift to day shift working,
 - Start earlier or later and finish earlier or later,
 - Work the same number of hours but spread over fewer or more days,
 - Work during school term only,
 - Perform some or all work from home.

2 Eligibility Requirements:

- 2.1 The right to apply for flexible working is subject to an employee meeting the following conditions, they must:
 - Be an employee,
 - Have worked continuously for at least 26 weeks by the date they make their request,
 - Not have made another application to work flexibly under this policy during the past twelve months.

3 The frequency of flexible working requests:

- 3.1 Employees can make one application every twelve months. Each year runs from the date the first application was made.

4 Application for a flexible working arrangement:

4.1 Employees must apply in writing to their line manager by completing the 'Request for Statutory Flexible Working Form' (Appendix 1). Any requests made under this policy must include:

- The date of the application
- The changes you are seeking to your terms and conditions of employment
- The date on which you would like the terms and conditions to come into effect
- What effect you think the requested change would have on the organisation
- How, in your opinion, any such effect might be dealt with
- A statement that this is a statutory request
- Whether or not you have made a previous application for flexible working, and
- If you have made a previous request, when you made that application

5 Timescales

5.1 Once you submit your flexible working request, it will be dealt with as soon as possible. However, all requests will be dealt with within 3 months, from receipt of the request to notification of any appeal decision.

5.2 The timescales within this policy may be extended where this is mutually agreed by the line manager and employee.

5.3 If you fail to attend a meeting to discuss your flexible working request, including an appeal meeting, and then fail to attend a rearranged meeting without good reason, your application will be deemed to have been withdrawn.

6 Considering the flexible working request:

6.1 Within 28 calendar days of receiving your application, your line manager will arrange to meet to discuss your request. The aim of the meeting is to find out more about your proposed working arrangements and how they could be of benefit to you, the service unit and the organisation. If the request cannot be accommodated the line manager and employee are encouraged to explore alternatives to find a working pattern suitable to all parties.

6.2 The line manager can agree to a flexible working request simply on the basis of the application itself without the need for a meeting.

6.3 The employee has the right to be accompanied by a Trade Union representative or work colleague. The companion can address the meeting and confer with the employee, but may not answer on behalf of the employee.

7 Reaching a decision on a flexible working request:

7.1 The line manager will respond in writing within 14 calendar days of the meeting to notify the employee of their decision, unless both parties agree to an extension. For example, where additional information is being sought about how the proposed changes may impact on the department or section

and further discussion is taking place in the possibility of enabling an employee to work on a flexible basis.

- 7.2 If the employee's request or a compromise is agreed, the notification, which must be dated, will include a description of the new working pattern and state the date from which the new pattern becomes effective.
- 7.3 The line manager is responsible for notifying the HR Department of the agreed changes. The changes to contract will be permanent and the employee does not have the automatic right to revert to their original hours.

8 Equality considerations

- 8.1 The line manager will carefully weigh up the potential benefits to the employee, the team and the organisation as a whole together with any adverse impact of implementing the changes. Each request is considered on a case-by-case basis – agreeing to one request will not set a precedent or create a right to another employee being granted a similar change to their working patterns.
- 8.2 Managers must ensure they do not discriminate against employees because of a protected characteristic under the Equality Act 2010 when dealing with flexible working requests. Under this Act, employees have the right not to be treated unfavourably on the grounds of sex, pregnancy or maternity, marriage or civil partnership, gender reassignment, race, religion or belief, sexual orientation, age or disability. Therefore, it may be appropriate if dealing with multiple requests, to look at the reasons why the employee wants to work flexibly and give priority to any employee whose request is linked to a protected characteristic.

9 Trial periods for flexible working arrangements:

- 9.1 There is nothing to prevent the manager and the employee reaching an agreement that any changes to the employee's working pattern should be implemented for a defined temporary period, or that a trial period should be implemented in respect of the proposed working arrangement.
- 9.2 A trial period of no more than 12 weeks can be beneficial if there is some doubt over the viability of the working arrangements requested by the employee. It may also be appropriate where, for example, the employee suddenly becomes a carer of an adult with a terminal illness or they have to care for someone with a fluctuating condition.
- 9.3 If the trial period is successful the arrangements will become permanent.
- 9.4 If the trial period is deemed unsuccessful by either party then a meeting will be convened to fully outline and discuss the issues. The outcome of this meeting may be that the original working pattern may be reinstated or an alternative pattern agreed.
- 9.5 Line Managers may seek to cover the remaining hours by recruitment or internal arrangements.

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10 Refusing a flexible working request outright:

10.1 If it is decided that the request cannot be accommodated, this must be conveyed in writing, detailing:

- which of the listed business ground(s) (see section 11) apply as to why the request cannot be agreed,
- the explanation of why the business reasons applies in the circumstances,
- Set out the Appeal Procedure.

11 The business grounds for rejecting a flexible working request:

11.1 The legislation covering requests for flexible working includes a statutory list of business reasons that an employer may advance as justification for refusing an employee's request for flexible working. The valid reasons are:

- The burden of additional costs
- An inability to reorganise work among 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, and
- A planned structure change to the business

11.2 Where a request is refused, the reason for the refusal can only be one or more of the above reasons. Managers must not deviate from this list; there should also be evidence to support the reason for refusal to grant an employee's request.

11.3 No application should be refused without consultation with the HR Department to ensure consistency of approach across the organisation.

12 Right of appeal:

12.1 The employee has a right to appeal against the decision. They must put their appeal in writing within 14 calendar days of receiving the decision to the Head of HR & OD. The appeal notice should set out the grounds for appeal.

12.3 The appeal will be heard by a member of the Corporate Management Team (CMT) who is responsible for that department of the employee. Also in attendance will be the manager that made the original decision and a member of HR who will provide HR advice to the CMT member. The employee has a right to be accompanied by a Trade Union Representative or work colleague.

13 Notifying an employee of the decision following the appeal meeting:

13.1 The employee should be notified of the outcome in writing within 3 working days after the date of the appeal meeting.

13.2 If the appeal is successful, the notification should detail a description of the new working pattern and the start date in which this will take effect.

13.3 If the appeal is not upheld, the notification must state the reason(s) for the decision and contain a sufficient explanation for the refusal, see section 11 for legitimate grounds for refusal. The appeal's decision is final.

14 Extensions to time limits and withdrawals:

14.1 There may be occasions where more time is needed to reach a decision. Any extensions should be agreed by both parties and confirmed with the employee, in writing.

14.2 Applications can be treated as withdrawn in the following circumstances:

- the employee unreasonably refuses to provide the information needed to consider the application,
- the employee twice fails to attend a meeting to discuss a request without reasonable cause, or
- where the employee decided to withdraw the application.

**Appendix 1
Application for Flexible Working**

Note to the employee:

Before completing this form, you should first read the Flexible Working Policy and check that you are eligible to make such a request.

You should note that under the right it may take up to 3 months to consider a request before it can be implemented. You should therefore ensure that you submit your application to your line manager well in advance of the date you wish the request to take effect.

It will help your line manager to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all questions as otherwise your application may not be valid. When completing sections 3 and 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues. Once you have completed the form, you should immediately forward it to your line manager.

Note to the manager:

This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications seriously. You have 28 calendar days after the day you received this application in which to either agree to the request or arrange a meeting with your employee to discuss their request.

1. Personal Details

Name:

Manager:

Start Date:

I would like to apply to work a flexible working pattern that is different to my current working pattern. I confirm I meet each of the eligibility criteria as follows:

- I have worked continuously as an employee of Tamworth Borough Council for the last 26 weeks.
- I have not made a request to work flexibly under this right during the past 12 months.

If you are not sure whether you meet any of the criteria, information can be found in the **Eligibility** section of the Policy. If you are unable to tick all of the relevant boxes then you do not qualify to make a request to work flexibly under the statutory procedure. This does not mean that your request may not be considered, but you will have to explore this separately with your manager.

2a. Describe your current working pattern (days/hours/times worked):

2b. Describe the working pattern you would like to work in future (days/hours/times worked):

2c. I would like this working pattern to commence from:

Date:

3. Impact of the new working pattern

Please comment upon how you think the proposed changes will impact upon the work of the department and what effect these changes may have upon colleagues etc.

4. Accommodating the new working pattern

I think the effect on my employer and colleagues can be dealt with as follows:

5. If you have made a previous request for Flexible Working, please state the date and nature of the request.

I confirm that I have considered the effects of this request on my pay, national insurance and tax contributions, my pension, annual leave entitlements and my ability to attend training courses.

I understand that this may lead to a change in the terms and conditions of my contract of employment and the changes to contract will be permanent and I do not have the automatic right to revert to my original hours.

Name:

Date:

Signature:

Community Impact Assessment

Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	Right to Request Flexible Working Hours	
Date Conducted	October 2022	
Name of Lead Officer and Service Area	Jackie Noble HR	
Commissioning Team (if applicable)	N/A	
Director Responsible for project/service area	Anica Goodwin	
Who are the main stakeholders	Employees	
Describe what consultation has been undertaken. Who was involved and what was the outcome	CMT TULG Members	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)		
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	<input checked="" type="checkbox"/>
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x' which applies	New	<input checked="" type="checkbox"/>
	Existing	<input type="checkbox"/>
	Being reviewed	<input type="checkbox"/>
	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>

Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

Provides the framework for applying for flexible working.

Who will be affected and how?

All employees

Are there any other functions, policies or services linked to this impact assessment?

Yes No

If you answered 'Yes', please indicate what they are?

Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation)
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of age
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of disability
Gender Reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of gender reassignment
Marriage & Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of marital status
Pregnancy & Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of pregnancy and maternity
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of race
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of religion or belief
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of sexual orientation
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair

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			treatment irrespective of sex
Gypsy/Travelling Community	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Caring/Dependent responsibilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair and assists an employee who is a carer
Those having an offending past	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Children	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Vulnerable Adults	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those who are homeless	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those on low income	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Drug or Alcohol problems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Mental Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Physical Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Other (Please Detail)	<input type="checkbox"/>	<input type="checkbox"/>	

Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications

Impact Area	Details of the Impact	Action to reduce risk

Part 5 - Action Plan and Review

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome

Date of Review (If applicable)