

Right to Request Flexible Working Policy



ORGANISATIONAL DEVELOPMENT

Issued: April 2024

This document is also available in Welsh / Mae'r ddogfen hon hefyd ar gael yn Gymraeg

Version Control

This document is intended for:

- Council staff only School-based staff only Council & School-based staff

Version	Key Changes	Approved By
Mar 2020	Reformatted only	DMT
Dec 2022	Right to request flexible working now a 'day one' right; information from Compressed Hours and Part-Time and Job Share policies incorporated	CLT on 8/12/22
Apr 2024	Updated to reflect the Employment Relations (Flexible Working) Act 2023: <ul style="list-style-type: none">• Employees can now make two (not one) flexible working requests in any 12 month period.• Requests have to be dealt with by employers within two (not three) months of receipt of a request if no extension is agreed.• Employers are not able to refuse a request until they have 'consulted' with the employee.• Employees will no longer, in their application, have to explain what effect the employee thinks agreeing to the request would have and how any such effect might be dealt with.	OD

This document may be reviewed and amended at any time and without consultation in response to legal requirements or in response to an organisational requirement and where the changes do not reflect a fundamental change or affect the spirit or intent of the document.

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1. Introduction

The Council/School is committed to creating a more flexible workplace by providing flexible working options for employees to assist in balancing their work and home life, recognising that flexible working supports the health and wellbeing of the workforce. The Council will endeavour to support this approach as far as possible, whilst ensuring service delivery is optimised.

Flexible working offers a range of organisational benefits including increased commitment and motivation, improved recruitment and retention, reduced absenteeism and the provision of more flexible services to local communities.

This policy sets out an employee's right to request flexible working and the conditions which apply including arrangements for managing such requests.

2. Scope

This policy applies to all Council employees, excluding relief workers. The policy covers a range of options which may not be applicable in certain service areas e.g. schools.

3. Types of Flexible Working

Flexible working is any type of working arrangement that gives some degree of flexibility on how long, where and when an employee works which can take many forms, including part-time working, job sharing and compressed working hours some of which are described below. This is not an exhaustive list and there may be other forms of flexible working that may be considered, however, this provides a starting point for consideration by an employee for discussion with their manager.

Part-time Working

Part-time working covers any arrangement where an employee is contracted to work for less hours than would normally be regarded as full-time hours (37 hours) enabling them to have more days off or a shorter working day. Part-time employees have the right to receive the same benefits, pro-rata to their hours of work, as a comparable full-time employee and should not be treated less favourably in respect of any terms and conditions of employment than a comparable full-time worker, for example:

- **Rates of pay** – part-time employees should receive the same hourly rate of pay for a particular job as a full-time employee.
- **Overtime** – receive the same hourly rate for overtime as comparable full-time employees, but only when they have worked more than the normal full-time hours of a comparable full-time employee (37 hours).
- **Annual Leave/Statutory Holidays** – entitlement and carry-over of leave is calculated pro-rata to hours of work. Part time workers annual leave will be calculated in hours rather than days.

- **Training/Staff Development** – part-time staff are eligible for training on the same basis as full-time staff. Where possible, courses should be arranged so that part-time workers can attend within their normal working hours.

Job Sharing

Job sharing is a part-time arrangement whereby two employees share the duties and responsibilities of a single post. The post may be shared on a split-day or a split-week basis, some of the more common ways to split a job are:

- **split week** – each job sharer works two and a half days
- **split day** – a job sharer works mornings and the other works afternoons
- **alternating weeks** – job sharers work alternating weeks

The normal hours of a job sharer will be a pro-rata share of those of the full-time post and pay and benefits are shared in proportion to the hours each works. In most situations, it will be an equal split of the normal working hours – 18½ hours for each job sharer. Where continuity is considered essential by a Manager, both job sharers may be required to overlap their hours of work or arrange to meet at a specific time during the week but no additional hours should be worked.

A request to work on a job share basis may be subject to the successful recruitment of a job share partner.

Compressed Hours

Compressed working hours is where an employee works their total number of contractual hours over fewer working days. For example, a five-day week compressed into four days, or a ten-day fortnight into nine days.

The needs of the business must be taken into account when deciding on the appropriate day to be taken off particularly where there are a number of staff working compressed hours. Employees will also need to be flexible to ensure they are meeting the needs of the service for example if a meeting they need to attend is being held on a typical day off, employees should try to make arrangements to attend if necessary.

In working compressed hours, managers and employees should be mindful of the working time regulations and the health and safety implications of working excessive hours.

Term time working

Term time working is a form of part-time working where the employee generally works only during school terms and does not work during the school holidays. The annual salary is usually paid in equal monthly instalments spread over the year to cover any unpaid periods.

Flexible hours/Staggered start and finish times

An employee can choose, within certain parameters, their pattern of work as detailed in the Council's flexible working hours scheme or may request to vary start and finish times to better fit their domestic responsibilities, travel arrangements, or for work purposes.

Home/Agile Working

Home/Agile Working is where an employee regularly carries out, all or part of their duties from home rather than council premises. Further guidance is available in the Agile Working Policy.

4. What are the Employee's Rights?

- To apply to work flexibly.
- To have the application considered in accordance with this Policy.
- To have a trade union representative or work colleague present at any meetings.
- To have a written explanation of any refusal and a right to appeal.
- To be able to make two flexible working requests in any 12 month period.

5. What are the Employee's Responsibilities?

- To provide a carefully thought-out application in writing which sets out the desired working pattern.
- To ensure that the application is valid by checking the eligibility criteria is met and that they have provided all the necessary information.
- To ensure that the application is made well in advance to allow sufficient time for the application to be considered.
- To meet the requirements of the policy and to attend meetings to discuss their application in an open and constructive manner and if necessary, be prepared to be flexible in order to reach an agreement.
- Recognise that there will be circumstances where certain requests cannot be approved as it may not be feasible to work in a particular way due to the nature of the service and there are objective business reasons.

6. What are the Employer's Responsibilities?

- To consider all requests fairly and equitably with positive intent in accordance with this Policy.
- To ensure the needs of the service are balanced with the needs of the employee when considering a request.
- To adhere to the time limits set out in the policy, unless otherwise agreed.
- To outline to the employee in writing the reason for a refusal to approve an application and be able to demonstrate objective business reasons and evidence that alternative working arrangements have been considered.
- To ensure that the Manager/Headteacher attends the meeting with an Organisational Development representative.

7. The Application Process

If an employee is considering flexible working they should have an initial informal discussion with their Manager/Headteacher at the earliest opportunity to discuss possible options. An application should then be made in writing by completing Form FW1 - Right to Request Flexible Working Application ([appendix 2](#)) and submitting to their Manager/Headteacher.

As part of the application process it is important that the employee submits a carefully considered application detailing the following to ensure that the application is valid for consideration:

- Specify their current working pattern and the requested change.
- State the date on which they are requesting the change to be effective. The proposed date should allow time for the application to be considered and implemented, and for any potential appeal to be heard, which could take a maximum of 2 months from the initial application.
- Whether they are applying for a permanent or temporary change to their contract.
- The date of application.

Any request in relation to the Equality Act, e.g. as a reasonable adjustment relating to a disability, should be made clear in the application.

If the application does not provide all the necessary information for the request to be considered, further information may be requested and the employee will be asked to resubmit the application. The Council/School will not be obliged to consider the application until it is completed in full and resubmitted.

8. Implications of an Agreement to Work Flexibly

An agreement to flexible working may be agreed on a permanent or temporary basis.. A change in working pattern may, if deemed necessary by the manager, be subject to a trial period with regular reviews which will be agreed in writing.

There is no right to revert to the original contractual working pattern at a later date if a permanent arrangement is agreed. The employee may apply for a further change which will be handled as a new and separate request, where the employee must meet the eligibility criteria as set out in this policy.

9. Considering the Request

The application is taken as having been made on the date it is received by the Council/School and must be considered within 2 months of the request (including dealing with any appeal), unless it has been mutually agreed to extend this time limit. The timescales for dealing with an application are set out within this policy and in the flowchart at [appendix 1](#).

Once an application is received, a meeting should be arranged with the employee as soon as possible and usually within 28 days, unless the intention is to approve the request then a meeting is not needed. The meeting will provide an opportunity to discuss the proposed change to the working pattern in more detail. The employee may be accompanied at the meeting by a trade union representative or work colleague.

All flexible working requests should be dealt with in a “reasonable manner” and carefully consider the benefits of the requested changes for the employee and the service and weighing these against any adverse business impact of implementing the changes. In considering a request there should be no unlawful discrimination.

A request may be granted in full, in part or refused. The Council/School may propose a modified version of the request, the request may be granted on a temporary basis, or the employee may be asked to try the flexible working arrangement for a trial period. A flexible working request may only be refused for one or more of the following business reasons:

- The burden of additional costs.
- A detrimental effect on ability to meet customer demand.
- An inability to reorganise work amongst existing staff.
- An inability to recruit additional staff.
- A detrimental impact on quality.
- A detrimental impact on performance.
- Insufficiency of work during the periods the employee proposes to work.
- A planned structural change.

Managers must also be able to evidence that they have considered alternative working arrangements to those requested by the employee.

Following consideration of the flexible working request the Manager/Headteacher is required to inform the employee of the decision in writing as soon as possible and usually within 14 days of the meeting. The letter will include:

- Confirmation that the flexible working request has been agreed, or an alternative has been agreed and the start date of the arrangement.
- Notification that the flexible working request has been refused on clear business grounds permitted by legislation and the reasons. Details on the right of appeal will also be included.

10. Failure to Attend Meeting

If an employee fails to attend a meeting/appeal without a valid reason the meeting will be rearranged. However, if the applicant fails to turn up to the rearranged meeting without a valid reason the request/appeal will be treated as withdrawn. This will be confirmed in writing to the employee.

11. Equalities

All requests must be considered fairly and equitably. The Council/School must be aware that a refusal may result in the business reason being scrutinised in relation to any form of discrimination. For example, it can be reasonably assumed that the majority of applications will be from women and it will be for the Council/School to prove that a reason for refusal can be objectively justified.

12. Appeals Process

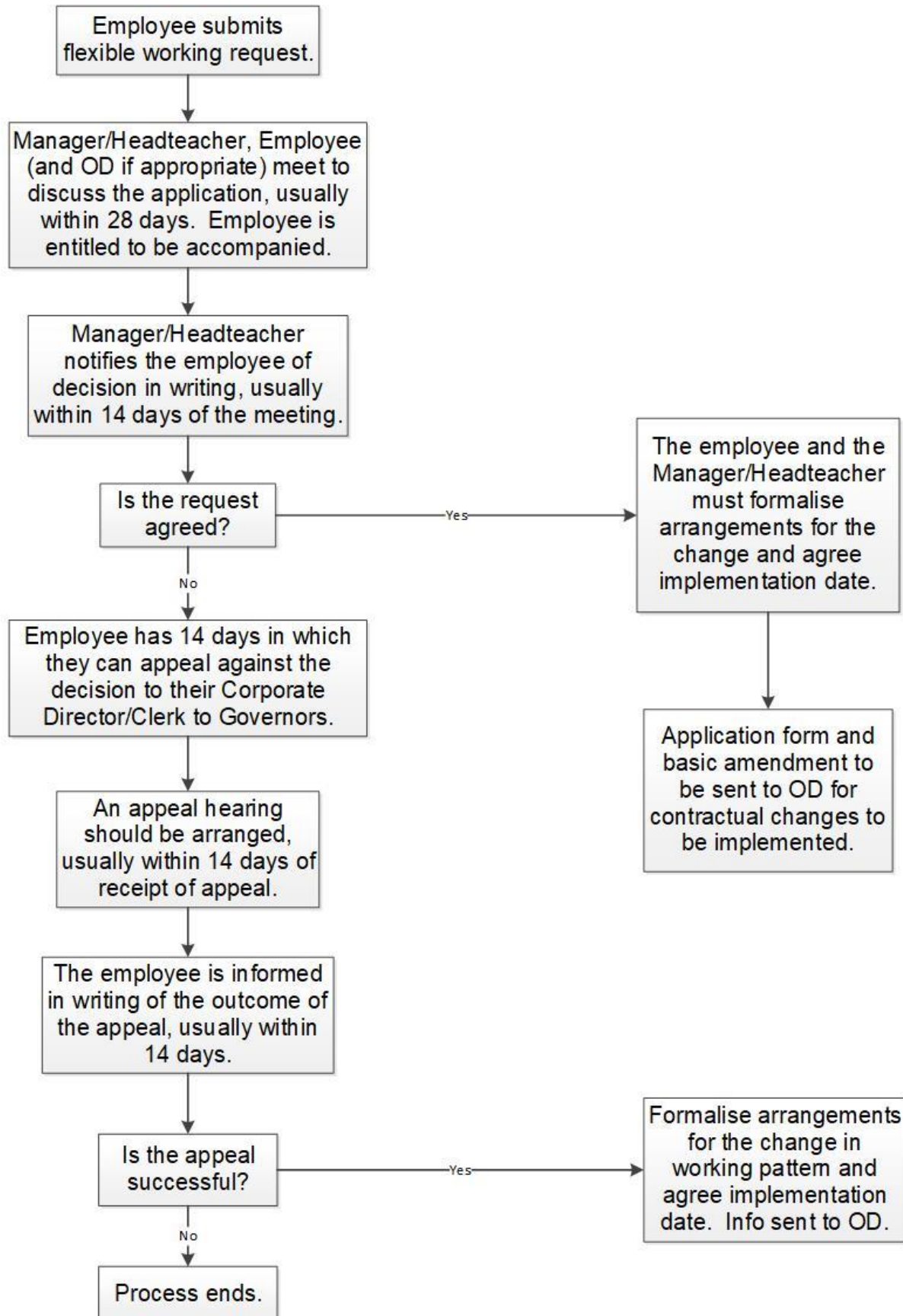
An employee has 14 days to lodge an appeal in writing against a decision to refuse a request for flexible working by completing Form FW2 - Right to Request Flexible Working Appeals Form ([appendix 3](#)). The Appeal will need to be submitted to the Corporate Director/Clerk to Governors of the School.

An appeal hearing should take place as soon as possible and usually within 14 days of receipt of the employee's notification to appeal. In relation to schools, the appeal will be heard by the Appeals Panel of the Governing Body. The Employee has the right to be accompanied by a trade union representative or work colleague at the meeting.

The employee or their representative will have an opportunity to put forward their appeal. The Corporate Director or their representative/Appeals panel will hear the appeal and make a decision to uphold or overturn the decision made by the Manager/Headteacher. A decision will be made as soon as possible and usually within 14 days of the meeting and communicated to the employee in writing. This is the final stage of the process and there is no further right of appeal.

Appendix 1: Flexible Working Request - Flowchart

The employee must be notified of the decision within 2 months of the request (including dealing with any appeal), unless it has been mutually agreed to extend this time limit.



Right to Request Flexible Working Application Form



PERSONAL DETAILS

Full Name:

Job Title:

Personal Reference Number (please note this is mandatory):

TO THE EMPLOYER

Please describe your current working pattern (days/hours/times/location worked):

Please explain what changes you are requesting and describe the working pattern you would like to work in the future (days/hours/times to be worked):

I would like this working pattern to start from (date):

Are you applying for a permanent change to your contract?

Yes

No

If 'no' how long would you like to adopt a flexible working pattern for?

Signed:

Date:

Please submit this application to your Manager/Headteacher

To be completed by the Manager/Headteacher

Date(s) of Meeting:

Outcome:

Name:

Signed:

Date:

PLEASE SUBMIT THIS APPLICATION TO HRpayroll@blaenau-gwent.gov.uk

In the case of agreed flexible working requests a basic amendment form should be submitted by the manager and this application attached.

Right to Request Flexible Working Appeal Form



PERSONAL DETAILS

Full Name:

Job Title:

Personal Reference Number (please note this is mandatory):

Representative/Trade Union Representative:

Detail the reason for appeal (please continue on a separate sheet if necessary):

Employee Signature:

Date:

***Please submit this appeal form to your Corporate Director/Clerk to Governors
within 14 days of the refusal***