

Flexible Working Request Procedure

Human Resources
April 2024

Flexible Working Request Procedure

1. Background

- 1.1 This procedure is intended to support Managers in applying the provisions of the Supporting Flexible Working Policy and the statutory right to request flexible working and will provide employees with information on the process for considering requests for flexible working.

2. Flexible Working

- 2.1 Employees have a statutory right to request flexible working and are entitled under this procedure to make up to two requests within 12 months. Although not specified in the regulations, flexible working as outlined in the Supporting Flexible Working Policy may include:

- Homeworking
- Hybrid Working
- Reduced Hours
- Compressed Hours
- Change to Start/Finish Times
- Change to Work Base
- Term Time Working
- Additional (bought) Annual Leave

Further [guidance](#) on the provision of Additional (bought) Annual Leave can be found on Mytoolkit.

3. Applications for Flexible Working

- 3.1 An application for flexible working must be made using the Flexible Working Application Form (Appendix 1) and submitted by the employee to their manager. Under the statutory right it may take up to 2 months to consider a request before it can be implemented, therefore employees should ensure that they submit their application well in advance of the date they wish the request to take effect.
- 3.2 On receipt of an application for flexible working, the service manager is obliged to consider the request and must meet the employee to discuss the application. The employee may be accompanied at this meeting by a Trade Union representative or colleague.
- 3.3 The Service manager must consider the request fully, carefully looking at the benefits of the requested changes in working arrangements for the employee and the council and weighing these against any adverse business impact of implementing the changes.
- 3.4 Options should be explored with the employee prior to any decision being made. Where it is not possible to fully agree to a request, it may be possible to agree to an alternative flexible working arrangement.
- 3.5 Consideration should be given, not only to the impact of granting a request, but also to the impact of rejecting a request.

4. Assessment Criteria

- 4.1 All applications must be assessed objectively in relation statutory criteria. Rejecting an application will only be valid under the terms of the legislation if the reason is objective and demonstrable and falls under one of the following categories:
- the burden of additional cost to the council;

- granting the request will have a detrimental effect on the council's ability to meet customer demand;
- granting the request will make it impossible to organise work within the existing staff resources;
- the council is unable to recruit to cover the hours vacated;
- the flexible working pattern will have a detrimental impact on quality of service;
- the flexible working pattern will have a detrimental impact on service performance;
- insufficient work during the periods when the employee proposes to work;
- it is not possible to accommodate the employee's request due to planned structural changes.

5. Agreement to Applications for Flexible Working

- 5.1 Where an application is agreed and results in a change to the number of hours worked per week or weeks worked per year, the manager will be responsible for completing a [contractual change form](#) or [bought leave form](#) and submitting along with the approved flexible working request in line with payroll processing timescales to hrchanges@westlothian.gov.uk.
- 5.2 Where there has been a contractual change to hours per week or weeks per year the employee will receive a letter confirming their new working arrangements.
- 5.3 It is recognised that in some circumstances it may be beneficial to both parties to agree a trial period before a final decision is taken in relation to granting or refusing a request for flexible working. Where both parties agree to a trial period the working arrangements should be reviewed at the end of the trial period and the employee should then be given a formal decision on their request.

6. Refusal of Application for Flexible Working

- 6.1 Where an application is refused (on one of the grounds listed in section 4) the line manager must inform the employee in writing of:
- The grounds on which their request has been refused;
 - The reasons why the specific ground applies in their circumstances; and
 - Their right of appeal as set out in section 5 below

A template letter for this purpose can be found in Appendix 2. The letter should be issued by the line manager with a copy of the completed Flexible Working Request Application.

7. Right of Appeal

- 7.1 Employees may appeal against a decision to refuse their request by writing to the Head of Service within 10 working days of being advised of the outcome of their application.

- 7.2 The Head of Service must arrange an appeal hearing within 10 working days of receipt of the appeal. The employee will be entitled to be accompanied at the appeal hearing by a Trade Union representative or colleague.
- 7.3 The Head of Service must provide a written decision within 10 working days of the hearing, unless an extension is mutually agreed.
- 7.4 If the appeal is rejected, the Head of Service must provide a written explanation of the grounds for dismissing the appeal. As with the initial application this must be on one of the grounds listed in 5.3 above and must explain why the specific ground applies in the circumstances.
- 7.5 The Head of Service decision is final and there is no further right of appeal.

8. Withdrawal of Applications

- 8.1 In certain circumstances, an employer will be entitled to consider an application for flexible working as having been withdrawn. Specifically where:
- An employee themselves decides to withdraw their application;
 - The employee fails to attend two meetings to discuss their application without reasonable cause; or
 - The employee unreasonably refuses to provide required information.
- 8.2 In any of the above circumstances the employee should be informed in writing that their application is considered to be withdrawn.
- 8.3 A withdrawn application will count towards the limit of two applications within 12 months.

9. Timescales

- 9.1 Where an employee exercises their statutory right to request flexible working, the council is required to consider and decide on the request, including any appeal, within a period of two months from receipt of the request.
- 9.2 The 2 month timescale can be extended where both parties agree.

10. Pension

- 10.1 Employees are advised to contact Lothian Pension Fund (www.lpf.org.uk) or the Scottish Public Pensions Agency (www.sppa.gov.uk) to discuss the impact any reduction in working hours/weeks may have on their pension. Employees should do this prior to making an application for flexible working arrangements.

11. Monitoring and Review

- 11.1 Heads of Service will be responsible for monitoring the application of the Flexible Working Request Procedure within their service area.
- 11.2 This procedure will be reviewed regularly in light of changing advice, research and legislation and at least once every 5 years.

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FLEXIBLE WORKING APPLICATION FORM

1. Personal Details (please PRINT)																															
Name:		Employee No:																													
Service Area:																															
I would like to apply to work a flexible working pattern that is different to my current working pattern in line with my statutory right.																															
Date of any previous request to work flexibly under this right:																															
Employee Signature:		Date:																													
2. What is your reason for requesting flexible working and which flexible working option would you like?																															
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Reason</th> <th style="text-align: center;">Please Tick</th> </tr> </thead> <tbody> <tr><td>Childcare</td><td style="text-align: center;">☐</td></tr> <tr><td>Care of other dependants</td><td style="text-align: center;">☐</td></tr> <tr><td>Health reasons</td><td style="text-align: center;">☐</td></tr> <tr><td>Work/life balance</td><td style="text-align: center;">☐</td></tr> </tbody> </table>		Reason	Please Tick	Childcare	☐	Care of other dependants	☐	Health reasons	☐	Work/life balance	☐	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Flexible Working Option</th> <th style="text-align: center;">Please Tick</th> </tr> </thead> <tbody> <tr><td>Homeworking</td><td style="text-align: center;">☐</td></tr> <tr><td>Hybrid Working</td><td style="text-align: center;">☐</td></tr> <tr><td>Reduced Hours</td><td style="text-align: center;">☐</td></tr> <tr><td>Compressed Hours</td><td style="text-align: center;">☐</td></tr> <tr><td>Change to Start/Finish Times</td><td style="text-align: center;">☐</td></tr> <tr><td>Change to Work Base</td><td style="text-align: center;">☐</td></tr> <tr><td>Term time Working</td><td style="text-align: center;">☐</td></tr> <tr><td>Additional (bought) Annual Leave</td><td style="text-align: center;">☐</td></tr> </tbody> </table>		Flexible Working Option	Please Tick	Homeworking	☐	Hybrid Working	☐	Reduced Hours	☐	Compressed Hours	☐	Change to Start/Finish Times	☐	Change to Work Base	☐	Term time Working	☐	Additional (bought) Annual Leave	☐
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3. Please provide additional information on your reason for requesting flexible working which may assist the council in accommodating your request:																															
4. Describe your current working pattern (days/hours/times worked):																															
5. Please provide additional information on the working pattern you would like to work in future including as appropriate: days/hours/times of work; work location; number of weeks purchased leave																															
6. I would like this working pattern to commence from date:																															

NOW PASS THIS APPLICATION TO YOUR SERVICE MANAGER

FLEXIBLE WORKING REQUEST OUTCOME

TO BE COMPLETED BY SERVICE MANAGER:

7. Managers Comments (including any amendments to the above request as discussed and agreed with the employee):

8. Outcome of Request

Options	Please Tick	Effective Date
Request approved on a permanent basis		Start:
Request approved on a trial basis		From: To:
Request refused		n/a

Reason for refusal (if appropriate):	Please Tick
Burden of additional cost to the council	
Detrimental effect on the council's ability to meet customer demand	
Organisation of work within existing staff resources	
Inability to recruit to cover the hours vacated	
Detrimental impact on quality of service	
Detrimental impact on service performance	
Insufficient work during the proposed work periods	
Planned structural changes	

9. Please explain why the reason for refusing the request applies:

Service Manager Name:

Service Manger Signature:

Date:

FLEXIBLE WORKING APPEAL OUTCOME

TO BE COMPLETED BY THE HEAD OF SERVICE:

10. Outcome of Appeal

For completion where the employee appealed the original outcome of their request.

Options	Please Tick	Effective Date
Appeal Upheld - Request approved on a permanent basis		Start:
Appeal Upheld - Request approved on a trial basis		From: To:
Appeal Not Upheld - Request declined		n/a

Reason for refusing request at appeal (if appropriate):	Please Tick
Burden of additional cost to the council	
Detrimental effect on the council's ability to meet customer demand	
Organisation of work within existing staff resources	
Inability to recruit to cover the hours vacated	
Detrimental impact on quality of service	
Detrimental impact on service performance	
Insufficient work during the proposed work periods	
Planned structural changes	

9. Please explain why the reason for refusing the request at appeal applies:

Head of Service Name:

Head of Service Signature:

Date:

A COPY OF THIS FORM SHOULD BE:

- Sent to the employee to provide a written statement in response to their request for flexible working after consideration by the line manager and again after consideration at appeal if appropriate;
- Saved by the line manager in the employee file on Objective as a record of the request and outcome and recorded on Case Management.
- Sent to hrchanges@westlothian.gov.uk ONLY where there is an accompanying [contractual change form](#) or [bought leave form](#).

Name
Address

Dear [Name]

FLEXIBLE WORKING REQUEST

Further to your request for flexible working and our recent discussion, I write to confirm that your request for flexible working has been refused.

The enclosed Flexible Working Application Form outlines the reason for this decision and how the relevant reason applies in this case.

You have the right to appeal against this decision and you may do so by writing to the Head of Service within 10 working days of the date of this letter. An appeal hearing will be arranged within 10 working days of receipt of your appeal and you have the right to be accompanied at the appeal hearing by a Trade Union representative or colleague.

Your sincerely

[Name]
Service Manager