

Flexible Working Guide

HR Service Effective from June 2014

1. Introduction

This Guide explains what flexible working means and how it can be used to help employees to achieve a better balance between their work and home life and also help managers to organise work around business and customer needs.

It details the Council's policy on flexible working and also the statutory right to request flexible working. It also details the types of flexible working that are available and what managers should take into account when considering requests for flexible working.

In respect of requests to work flexibly under the statutory right, this guide details the process to be followed in accordance with Acas guidance.

Flexible working cannot override the need to continue providing our services to the community.

2. The Statutory Right to Request Flexible Working

All employees have a statutory right to request flexible working provided that they have worked for their employer for 26 weeks continuously at the date the application is made. The right to request flexible working does not extend to Agency workers or those who have not been employed for 26 weeks.

Only one statutory request may be made in any 12-month period.

Where a request is made under the statutory right, this Guide explains the process to be followed in managing the request in accordance with the [Acas Guide to Handling Requests to Work Flexibly in a Reasonable Manner](#).

Applicants must make it clear, when applying for flexible working, whether they are applying under the statutory right or Bexley's own policy (see below).

3. Bexley's Policy

In addition to the statutory right to request flexible working, detailed above, the Council has its own flexible working policy:

The London Borough of Bexley strives to provide high quality value for money services to the public. The aim of the Council's Valuing Diversity policy is to ensure that the Council attracts, recruits and retains high quality staff through creative employment practices.

This extends to all employees, even if they have not worked for 26 weeks, and enables an employee to make more than one request per year (although the frequency of requests must be reasonable).

Bexley's policy does not extend to Agency workers, who should discuss their working arrangements with the relevant agency.

Flexible working in Bexley is designed to benefit employees whilst maintaining or improving the quality of service. It requires careful management in order to avoid potential difficulties e.g. communication problems, issues around attendance at meetings and problems of continuity.

The Council has the following options for flexible working arrangements.

Reducing the Number of Working Hours

- Job sharing.
- Part time work.

Flexibility in the Arrangement of Working Hours

- Term time working.
- Annual hours contracts.
- Compressed work weeks/fortnights.
- Staggered working hours.

Taking a Break from Employment

- Career break scheme.
- Career return scheme.

These are explained in detail in **Appendix 1** along with the benefits, costs and issues to consider relating to each one. This is not an exhaustive list and there may be other options or working arrangements which may be appropriate to enhance service provision while enabling employees to have a greater choice about when they work.

A request to work flexibly involves changing the terms and conditions of employment either on a permanent or temporary basis. If the change requested is for a temporary period, this should be made clear at the outset. Where a permanent change is agreed there is no automatic right to return to pre-existing working arrangements at any time. If you reduce your hours or take a career break, there will be an impact on your pay and pension. Please speak to your HR Adviser regarding the contractual implications of your proposed flexible working arrangement before committing yourself to any contractual changes.

4. Flexible Working and Disability

The Council has a duty to consider reasonable adjustments for disabled employees under the Equality Act 2010 and flexible working may be one way to help to keep a disabled employee in work. A change in the number of hours, pattern of work, place of work, or content of work may enable a disabled employee to contribute their full potential. Changes could be made on either a temporary or permanent basis depending upon the circumstances.

Flexible working can also provide the time needed for periods of rehabilitation for an employee who has just developed an impairment or a disabled employee whose condition has changed such that they require treatment or training to enable them to return to work effectively. Rehabilitation can include physiotherapy, counselling or training to develop skills that have been lost.

5. Flexible Working and Pre-Retirement or Flexible Retirement

Flexible working arrangements enable employees who are approaching retirement to reduce their hours, for example tapering down from full time to part time in the periods preceding retirement. This could help in preparing for the transition between paid work and retirement.

Both the Local Government Pension Scheme and the Teachers' Pension Scheme allow employees to draw their pension whilst continuing to work in a reduced capacity. Details are available from the relevant scheme websites or a summary is available Summary of Flexible Retirement rules.

Employees should seek independent advice regarding the pay and pensions impact of any reduction in their working hours before making a commitment.

6. Application process

You can discuss flexible working requirements informally with your manager at any time under the Council's own flexible working arrangements. If, however, your request is turned down, or likely to be turned down, you may still have the statutory right to make a request, subject to meeting the qualifying criteria (as detailed in Section 2).

To be valid, the request must be made in writing and employees wishing to formally apply for flexible working should do so through MyView.

Your application must include:

- the date of the application, the change to working conditions you are seeking and when you would like the change to come into effect
- a statement to explain what effect you think the requested change will have on the team and wider department and how, in your opinion, any such effect might be dealt with
- confirmation that this is a statutory request and, if you have made a previous application for flexible working, the date of that application.

You should clearly indicate if the request is made under the statutory right to request flexible working.

Unless specifically agreed otherwise, if your request is granted this will result in a permanent change to your terms and conditions of employment and there is no automatic right to return to your pre-existing working arrangements.

7. Consideration Process

A statutory request for flexible working must be considered and determined within 3 months of receiving the request, including the appeal process ('the Decision Period'.) The Decision Period can be extended provided the employee agrees.

As far as is possible, requests made under Bexley's own procedure will be considered in the same way and in the same timescales as statutory requests. On receipt of the request, the manager should:

(a) Arrange to meet the employee to discuss the request

The employee will normally be given seven calendar days' notice of the meeting and should be advised that they may be accompanied by a trade union representative or a work place colleague.

If the employer or employee cannot attend the initial date then another date will be arranged. The manager may, however, consider the application to have been withdrawn if the employee doesn't keep to a meeting and any subsequent rearranged meeting without good reason. The manager should find out and consider the reasons for the employee failing to attend both meetings before reaching a decision to treat the application as withdrawn. The manager must notify the employee of any decision to consider the application as withdrawn.

(b) At the meeting

The manager should explore with the employee exactly what changes they are seeking and how these might be accommodated. This is an opportunity to ensure that the proposal put forward is the best solution for both the employer and employee.

(c) Deciding on the request

The manager should consider the request carefully looking at the benefits of the requested changes for the employee and the business whilst weighing these against any adverse business impact - including costs and logistics (see **Appendix 1**).

Requests to consider flexible working should be considered objectively, in a reasonable manner and, under the statutory right, may only be refused if there are business reasons for doing so. The business reasons, as set out in legislation are:

- the burden of any additional costs is unacceptable to the organisation
- an inability to reorganise work among existing staff
- an inability to recruit additional staff
- the change will have a detrimental impact on quality
- the change will have a detrimental effect on the business' ability to meet customer demand
- the change will have a detrimental impact on performance
- there is insufficient work during the periods the employee proposes to work
- planned structural changes, for example, where the employer intends to reorganise or change the business and considers the flexible working changes may not fit with these plans

The [Acas Guide to Handling Requests to Work Flexibly in a Reasonable Manner](#) explores these reasons in more detail.

Managers may consider agreeing to a request on a temporary basis or for a trial period, where appropriate, rather than rejecting the request outright. In such cases an appropriate extension to the Decision Period/timescales should be agreed with the employee as is necessary to review the arrangements and make any adjustments before finalising the agreement.

Managers should consult with the relevant Deputy Director before confirming the outcome with the individual.

(d) Communicate the Decision

Having considered the request, the employer must let the employee know their decision, to either:

- accept the request and establish a start date and any other action
- confirm a compromise agreed at the discussion, such as a temporary agreement to work flexibly
- reject the request, setting out clear business reasons for this. Where the request is rejected the employee should be given 10 calendar days in which to appeal

This confirmation to the employee should be in writing.

Managers should use MyView to inform HR of any contract variations agreed.

8. Appeals

An employee may appeal against a refusal to grant a flexible working request if:

- there is new information that was not available to the manager at the time they made their original decision
- they think that the application was not dealt with in a reasonable manner

Appeals will normally be heard by a more senior manager than the manager who made the decision on the application. Any appeal must be determined (including communication of the decision of the appeal) before the expiry of the Decision Period. An appropriate extension to the Decision Period may, therefore, need to be agreed with the employee if necessary.

The employee may be accompanied by a trade union representative or a workplace colleague at the appeal meeting.

The decision of the appeal meeting should be notified to the employee in writing as soon as is practical following the meeting. This decision will be final and there will be no further right of appeal.

Appendix 1 - Types of Flexible Working

Job Sharing

Definition

Job sharing is a way of working where two people voluntarily share the responsibilities of one job, dividing the pay, holidays and benefits between them according to the number of hours worked. Each person holds a permanent part-time post.

Most jobs have the potential to be undertaken by this working arrangement, even supervisory, managerial, senior and specialist jobs.

Benefits and Costs

For employees, a number of benefits may derive from job sharing. Many see it as a way to lessen their hours of work but still use their skills and maintain career development, job satisfaction and status.

Managers should think about the following when considering the suitability of any proposed job sharing arrangements:

Benefits

- wider field of recruitment
- the potential for less disruption (during sickness, annual leave and other absence)
- an increased pool of experience and skills
- greater flexibility
- increased retention of experienced employees (in particular a return to work after maternity leave) with savings in recruitment and training

Costs

- more time and expense spent on training job sharers
- increased supervision, appraisals and monitoring
- time spent on handover periods
- difficulty reverting back to one full-time occupant

Issues to think about

Other issues you need to consider are:

(a) Organising Tasks and Responsibilities

- how time will be divided, e.g. 2½ days each or mornings and afternoons etc.
- how work will be allocated - this could be, for example, by sharing tasks or dividing case load

(b) Time Management

work should be evenly allocated between job sharers, taking into account peaks and troughs

- Bank Holidays should be shared evenly between job sharers in accordance with their hours of work

(c) Where Job Sharers manage staff

- how staff will be managed must be resolved with clear reporting lines identified

(d) Communication and Continuity

- information should be communicated to both job sharers
- systems should be set up for job share partners to maintain communication with each other

Part-time Working

Definition

A part timer is an employee who is contracted to work less than the standard working week.

Benefits

There are two main situations where this type of arrangement might be considered. Firstly, where there is not enough work to justify a full-time post or, secondly, it could be used if an individual wishes to reduce their hours. Perhaps they have child care responsibilities, a disability or health problem, wish to undertake further studies or simply would like more time for personal pursuits. The reduction in hours could be used as a temporary measure to assist a member of staff who has, for example, short term domestic commitments and needs to reduce their hours for a while, for example to care for a relative who is seriously ill.

Other benefits include:

- the ability to retain and recruit staff who are not able to work full time
- flexibility
- the opportunity to arrange working hours to meet the peaks and troughs of work

Issues to think about

Part time employees receive pay and conditions of service equivalent to that of permanent employees (pro-rata).

Key areas you will have to think about are:

(a) Organising Tasks

- the different tasks of the job need to be identified so they can be divided to create more than one job
- the grade of the posts may need to be reviewed because a job is made up of different levels of work
- there may be an impact on the workload of colleagues
- training designed to meet the needs of part timers should be considered

(b) Part-timers who manage staff

- arrangements for the management of staff may need to be looked at, including arrangements during non-work time
- clear reporting lines will be required

(c) Communication

- individuals will need to be kept up to date about all departmental developments
- information will need to be retained in their absence

Term-time Working

Definition

Under a term-time working arrangement, employees work less than 52 weeks per year and typically working time is linked to the school year.

Benefits

This type of arrangement is ideal for work that is project based and/or linked to the school year. From an employee's viewpoint, this may suit someone who has school-age children. It is not suited, however, to jobs which need to be done continuously throughout the year or where peaks in workload coincide with school holidays.

Issues to think about

Key issues include:

(a) Organising tasks

- would there be an impact on the workload of colleagues?
- would work still need to be done during the school holidays?
- If yes, how would this be managed?

(b) Managing Staff

- arrangements for the management of staff may need to be reviewed
- clear reporting lines will be required

(c) Communication and continuity

- the individual would need to be kept up-to-date on all departmental developments/issues
- a system would be required to ensure that information is retained for them in their absence

Annual Hours Contracts

Definition

Annual hours working is a system whereby the period of time within which employees must work is defined over a whole year. Employees commit themselves to a number of hours and a pattern of working over a twelve-month period as determined by the needs of the business.

This may be appropriate where there is a seasonal fluctuation in the workload which means staffing needs vary from week to week.

Benefits

These include:

- reduced need for use of overtime, as peaks in work are dealt with as part of the normal working week
- staff do not need to work at times when there is a reduction in the level of work

Issues to think about

- Communication would need to be looked at to ensure that all staff are kept up to date on work, departmental and corporate issues.
- Identifying peaks and troughs in workload to establish requirements for shift patterns.
- Individuals will be working at different times so clear reporting lines for supervision would be required.
- Administering shifts/rota arrangements.
- Detailed consultation/negotiation will be needed if you want to move existing staff on to this arrangement.
- The lead time that will be needed to set this type of contract up.
- Please discuss this option with your HR Adviser before committing to an annual hours contractual arrangement

Compressed Working Weeks/Fortnights

Definition

This is a system which allows an employee who works full time to work their total number of agreed hours over fewer working days. Often a five-day working week is compressed into four days or four and a half days or nine day fortnight.

Benefits

These include:

- reduced need for overtime
- help to recruitment and reduce staff turnover
- reduced absenteeism
- providing half day or days away from work without reducing full time pay
- providing effective working at quiet times i.e. beginning and end of the working day
- providing the opportunity to avoid rush hour traffic thereby reducing lateness
- availability of employees to work longer days provides opportunity to extend hours of service provision.

Issues to think about

- Office cover for the day.
- Is the nature of the work suitable including customer requirements?

- Increased working hours in four days should take account of required rest break under the Working time regulations.
- Implication for taking annual leave, other paid leave and bank holidays should be discussed with the HR Service.

Staggered Working Hours

Definition

This is where employees in the same workplace have different start, finish and break times and can be an effective means of covering longer opening hours.

Benefits

These include help for employees:

- to accommodate events in their lives
- whose health condition may fluctuate to vary their start and finish times as their condition permits

Issues to think about

- Cover for the team is arranged especially for core business hours.

Career Break Scheme

Definition

The Career Break scheme provides a break in employment during which the employer and employee keep in touch by a variety of means. Employees may take a break of up to two years and in order to enter the scheme an employee must resign from the Council. The Career Break scheme is not intended for individuals to take up another job outside the employment of the Council.

Although it is not possible to give a firm guarantee, the intention is that at the end of the Career Break, the employee would return to the same or similar job. To be considered for the scheme employees must have 2 years' service with Bexley.

This arrangement may be particularly of interest to employees who wish to take a break to care for relatives or to pursue personal interests. When considering a request, special leave arrangements should also be considered.

Benefits

Sometimes individuals wish to take a longer break from work than annual leave entitlements allow. This type of arrangement may suit those who wish to take an extended period of maternity leave or to undertake some form of full-time study. Without this type of arrangement, Bexley may lose experienced, trained staff who might otherwise leave permanently.

Issues to think about before employee leaves

(a) Initial considerations

- consider whether the reason for the career break is a legitimate one (this does not include doing another job)
- agreement to the career break is more likely if there is suitable cover available
- is the job likely to exist after the career break has finished?
- how will the job be covered during the break?

(b) Organising tasks

- arrangements would need to be made for cover during the break
- the impact on other staff would need to be considered

(c) Communication

- methods of keeping in touch with the employee should be agreed
- the individual will need to be kept up-to-date on developments which occur during their absence
- management of the individual's work experience would need to be considered especially for jobs requiring detailed Continuous Professional Development (CPD) record of competence (e.g. legal services)

Issues to think about before employee returns

- is the job still required?
- does the job need changing?
- would the job be suited to one of the other arrangements detailed in this Guide?

Career Return Scheme

Definition

Individuals who have voluntarily resigned from the Council may enter this scheme. Under this scheme an employee may have a break from work for between 2 and 5 years, at the end of which they may apply for any vacancy within the Council as an internal candidate.

When might it be used?

An individual may enter the scheme when they voluntarily resign from the Council and indicate their wish to enter the scheme in their resignation letter.

This Scheme does not apply where an employee has been dismissed or left to take up another job.