

Flexible Working Policy and Procedure

People Management

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1. Introduction

Under the provisions set out in the Children and Families Act 2014 and the Flexible Working (Amendment) Regulations 2023, all employees have a statutory right to ask their employer for a permanent change to their contractual terms and conditions of employment to work flexibly.

Carmarthenshire County Council has a statutory duty to consider all such applications.

This statutory right does not provide an automatic right to work flexibly. The Authority will work with employees to try and reach mutually acceptable flexible working arrangements that meet the needs of both parties. However, there may be circumstances where a request to work flexibly may be declined due to business reasons and these will be clearly explained during the application procedure.

The statutory right aims to facilitate discussion and encourage both the employee and the line manager to consider alternative flexible working patterns and to find a solution that suits both parties.

2. Scope

This policy covers all employees including centrally employed teachers but excludes staff on the complement of locally managed schools for whom a separate policy applies. In the absence of a policy agreed locally by individual schools the principles of this policy should be followed.

3. Principles

- Each application for flexible working will be considered on its own merits and subject to qualifying criteria.
- Employees will be provided with appropriate support and information during their application by their line manager with advice from the HR Team.
- An employee may request to be accompanied by a recognised trade union representative or official, or a work colleague as a companion at the meeting or the appeal meeting.
- Employees can expect to have their application considered fairly in accordance with the set procedure.
- Applications will be dealt with in accordance with the time limits prescribed unless both parties agree to an extension.
- Applications will only be refused where there is a clear business ground for doing so. The reasons for rejecting the application will be clearly explained.
- All agreed contractual variations under this procedure will be recorded in writing.
- A successful application will result in a permanent change to the employee's terms and conditions of employment.

4. Eligibility

To make a statutory request the individual will:

- be an employee of the Authority (there is no minimum service requirement)
- not be an agency worker.
- not have made more than two applications under this policy in any 12-month period.

5 The statutory right to request a predictable working pattern.

Workers, i.e., have a separate statutory right to request a predictable working arrangement under the Employment Rights Act 1996. If you are a worker, you may make two statutory requests a predictable working arrangement within any 12-month period. Please see the Authority's Policy on Handling Requests for a predictable Working Pattern.

If as an employee you make a statutory request for flexible working and the purpose of that request is to have a more predictable working pattern, it will count as both:

- one of your two statutory requests for flexible working
- one of your two statutory requests for a predictable working pattern

You may have only one live request either for flexible working or for a predictable working pattern with the Authority at any one time.

Once eligibility has been established an employee can make a request under this policy by completing attached form FW (A).

5. Scope of the Request

Eligible employees will be able to request:

- A reduction in the hours they work.
- A change to the times when they are required to work.
- A change to the place at which they work in full or in part (specifically home as opposed to workplace).

Examples of types of flexible working patterns that may be requested are contained at Appendix 1. However, it should be noted that not all the work patterns identified may be suitable to your circumstances or working environment.

6. Making an application

All requests must be made in writing by filling the application form FW (A). Any request under this policy must include:

- Date of the application.
- A statement that it is a request for flexible working.
- The changes that the employee is seeking to their terms and conditions.
- The date on which the employee would like the terms and conditions to come into effect.
- Whether or not the employee has made a previous request for flexible working or a request for a predictable working arrangement and if so when the employee made that application.

All requests, including any appeals, must be decided within a period of two months from when the manager first receives a valid request, unless the manager and employee agree to extend this period. If an extension is agreed, the manager should confirm this in writing to the employee.

7. The Procedure

An employee must in the first instance submit their formal application using FW (A). The level of detail required will depend on the desired changes to the existing working pattern. However, employees should note that it could take up to two months to complete the process from submission of the application to final implementation. (Guidance for employees is contained at Appendix 2).

An agreed application will mean a permanent change to the employee's own terms and conditions of employment. There will be no right to revert to the previous working pattern i.e. to increase their hours of work. It will be important therefore that before making an application the employee considers which working pattern will be best for them and any financial implications, including the effect on their pension.

It is also the line manager's responsibility to carefully consider an application for flexible working and examine how the desired working pattern can be accommodated within a particular service area or function. Where the request cannot be supported the line manager should explore alternative options with the employee which may be mutually agreeable.

At all stages of this procedure both employees and line managers can seek advice from the HR Team within People Management. Employees may also seek advice from a recognised trade union representative.

8. Considering the Application

It is possible for a manager to agree to a request to work flexibly simply based on the application itself and if so, they should write to the employee, specifying agreement and the start date. Where this is not possible, there is a set procedure to be followed.

If an employee does not provide all the information required, the line manager should inform the employee what they have omitted and ask them to re-submit their

application. The line manager should also inform the employee that they are not obliged to consider the request until it is complete and re-submitted.

If the employee does not provide the line manager with the information needed to assess whether the change can be agreed to, e.g. they have not described the desired working pattern, the Authority will be entitled to treat the application as withdrawn. The employee will only be able to make one more application under this procedure within a rolling 12-month period. It is therefore important for the employee to provide all the information requested.

9. The Meeting

A meeting is not required where the line manager is able to approve the flexible working request, based on the information provided in the application.

If the line manager cannot approve the flexible working request based on the information they have, they must arrange a meeting following receipt of the formal application under this procedure.

The purpose of the meeting is to allow both parties an opportunity to explore the desired work pattern in depth and to discuss how best it might be accommodated. It will also provide an opportunity to explore other alternative working patterns should there be questions with the proposal put forward by the employee. The meeting can be adjourned to allow the employee and/or the line manager to consider alternative solutions or working patterns and agreement reached on the next meeting date.

If an employee does not attend a meeting without notification and does not provide a reasonable explanation within seven calendar days the line manager should write to the employee confirming that the application is treated as withdrawn.

The line manager is responsible for taking and retaining notes of all meetings with the employee to discuss the flexible working application.

10. The Right to be Accompanied

There is no statutory right of accompaniment at meetings held to discuss a request for flexible working. However, allowing you to be accompanied is good practice. This can be helpful in giving confidence to make requests and in supporting both parties to find a mutually agreeable solution.

If you make a request to be accompanied at any meeting to discuss your request for flexible working, including any appeal, and your request to be accompanied is reasonable and does not cause undue delay in the process, your manager should allow you to be accompanied a trade union representative, or an official or a work colleague.

What is reasonable will depend on the circumstances of each individual case. A request to be accompanied does not have to be in writing or within a certain timeframe. However, you should provide enough time for your manager to deal with the request for a companion's attendance at the meeting. You should also consider how you make your request so that it is clearly understood, for instance by letting your manager know in advance the name of the companion where possible and whether they are a trade union official or representative, or a work colleague. Please see guidance on the [Role of the Companion](#).

11. Informing the Employee of the Outcome

Where an application is approved, the line manager should:

- Confirm in writing to the employee their agreement with the proposed or alternative work pattern and confirm a start date. Form FW (B) should be completed and returned to the employee.

Where an application is rejected, the line manager should:

- Provide in writing to the employee a clear business grounds as to why the application cannot be accepted and their reasons why the grounds apply in the circumstances. Form FW (C) should be completed and returned to the employee.

There may, however, be occasions when the line manager will take further advice before notifying the employee of their final decision. Should this be the case, the line manager should agree with the employee concerned an extension to the time limit for responding to the application. This should be clearly documented with the revised time limit being specified.

12. Trial Periods

Trial periods can help both the employee and line manager test a particular working pattern to see if it works out to the satisfaction of both parties.

In some circumstances, especially when caring for an adult, a permanent change may not be the best solution e.g. an employee suddenly becomes the carer of an adult with a terminal illness, the line manager may consider a temporary flexible working arrangement, agreed informally outside the formal procedure, or agree to a time limited change after which the employee reverts to the original pattern. Please see the Authority's Carer's Leave Policy.

Trial periods can potentially happen at two stages before a formal agreement is reached:

- The line manager could give informal agreement to a trial before a formal flexible working request has been made by the employee; if this happens, the formal procedure is still available to the employee at some stage in the future.

or

- If a formal application is made, an extension of the time for an employer to decide could be agreed and the trial period could happen before a final agreement takes place; in this case the rest of the formal procedure would still be available to the employee.

Trial periods or temporary arrangements should be for no longer than six months, at which point the employee should either revert to their original working pattern or the new flexible working arrangement should become a permanent change to their contract.

13. Business Grounds for Refusing a Request

Unfortunately, service needs or circumstances may dictate that an application for flexible working cannot be accommodated in accordance with the employee's desired work pattern or a compromise agreed. Under the legislation, applications can only be rejected for one or more of the following reasons:

- Burden of additional costs.
- Detrimental effect on ability to meet customer demand.
- Inability to reorganise work among existing staff.
- Inability to recruit additional staff.
- Detrimental impact on quality (of service).
- Detrimental impact on performance.
- Insufficiency of work during periods the employee proposes to work.
- Planned structural changes.

The line manager will clearly document and provide for the employee the ground(s) for rejecting an application as well as clearly explain how the specified ground(s) apply in the circumstances of their application. Form FW (C) should be completed as detailed above.

14. Appeal

Where the line manager turns down an application, the employee has the right to appeal against the decision. This must be done in writing, to the appropriate Director or nominated representative setting out the grounds for the appeal, following receipt of the written notice of the decision (employees should complete Form FW (D)).

The appropriate Director or nominated representative will hear the appeal with advice from the Assistant Chief Executive (People Management) or nominated representative.

An appeal meeting will then be convened within following receipt of the letter of appeal (Form FW (D)). The employee may request to be accompanied at the appeal

by a recognised trade union representative or official, or work colleague. Please see section 10 above.

Where new information is presented to the appeal, which supports the ground(s) for the appeal, this will be considered. For instance, where the original application has been refused due to the inability to reorganise work among existing staff or was due to the inability to recruit additional staff; and another employee has since elected to return to work following maternity leave on a part time basis and is prepared to cover the hours.

In circumstances where the employee does not attend an appeal meeting without notification and does not provide a reasonable explanation within XX calendar days the Director or nominated representative should write to the employee confirming that the appeal is treated as withdrawn.

15. Informing the Employee of the Outcome

The decision of the appeal meeting will be notified to the employee after it has been held. The appropriate Director or nominated representative will communicate this in writing to the employee by completing Form FW (E). The decision at appeal will be final and exhausts the internal procedure.

If the appeal is upheld the written decision must:

- Include a description of the new working pattern.
- State the date from which the new working pattern is to take effect; and
- Be dated.

If the appeal is dismissed the written decision must:

- State the grounds for the decision appropriate to the employee's own grounds for making the appeal.
- Provide an explanation as to why the grounds for refusal apply in the circumstances; and
- Be dated.

16. Declined Applications

Most applications will conclude with a satisfactory outcome but there may be occasions when the employee feels their application has not been dealt with to their satisfaction and the request is declined. The employee may want to involve a third party or be thinking about making a complaint to an employment tribunal. However, the following are options to deal with unresolved and declined applications:

- Through an informal discussion with their line manager.
- Through the Authority's Grievance Procedure.
- Using third party involvement e.g. an ACAS official

However, an employee can make a complaint to an Employment Tribunal or ACAS early conciliation where:

- The employer has failed to follow the procedure properly; or
- The decision by the employer to reject an application was based on incorrect facts.

An employee has no right to make a complaint where they simply disagree with the business grounds provided. Please note that the early conciliation scheme is voluntary, and both the employee and employer must agree to the process.

17. Extension of Time Limits

There will be exceptional occasions when it is not possible to complete a particular part of the procedure within the specified time limit. Such extension of time limits can only take place if both the line manager and the employee agree to them. The line manager must make a written record of this agreement and send a copy to the employee. Form FW (F) should be completed. However, where the employee or line manager responsible for dealing with the application is away from work due to leave or illness, an automatic extension of the time limit will apply. On the employee's or line manager's return to work, the application should be acknowledged so that the employee is aware that the extension has applied and the period in which they can expect to meet with their manager.

18. Withdrawal of an Application

There will be occasions when an application is treated as withdrawn. In all circumstances a written record must be made.

Under the legislation, should an employee withdraw an application following its submission to the line manager, the employee will only be able to make one more application within a rolling 12-month period from the date of the original application. Employees should complete and submit Form FW (G) to their line manager.

There are three reasons why an application may be treated as withdrawn:

- The employee decides to withdraw the application.
- The employee fails to attend two meetings.
- The employee unreasonably refuses to provide the line manager with the required information.

The appropriate line manager, Head of Service, Director, Assistant Chief Executive or their nominated representative will write to the employee to confirm this.

19. Ensuring equality of opportunity

Managers must adopt a positive, open and fair approach and ensure the Authority's [Equality and Diversity Policy](#) is adhered to and applied consistently to all irrespective of race, colour, nationality, ethnic or national origins, language, disability, religion and belief or non-belief, age, sex, gender reassignment, gender identity or expression, sexual orientation, maternity, parental, marital or civil partnership status.

If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the People Management Team who will, if necessary, ensure the policy/procedure is reviewed accordingly.

If you require this publication in an alternative format, please contact People Management by emailing CHR@carmarthenshire.gov.uk

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Appendix 1

Examples of working arrangements/patterns which can be requested under the right to request flexible working are listed below:

Annualised hours – working time organised based on the number of hours to be worked over a year rather than a week.

Compressed hours – total hours which can be worked over a shorter period e.g. full weekly hours being worked over 4 days instead of 5.

Flexi time – choice of actual working hours outside certain core times.

Home working – not necessarily on a full-time basis but allows for time to be divided between home and office base. A risk assessment of the activities undertaken will be required in advance of this pattern of work being undertaken.

Job sharing – typically when two people are employed on a part-time basis but working together to cover one post.

Shift working – gives scope to open longer hours and for employees to have either set or different hours of work per week.

Staggered hours – different start and finish times at different times of the day.

Term time working – allows for unpaid leave of absence during the school holidays.

Appendix 2

Guidance for employees

How to help the Authority consider your application:

- Think carefully about the working pattern you require before making your request. You will have no right to revert to your former hours of work.
- Be clear about the date you would like the new working pattern to commence. Allow sufficient time for the procedure to be undertaken.
- Always complete Form FW (A) when submitting your application. This will ensure that you provide all the relevant and necessary information for the Authority to consider your application properly.
- The more notice you provide in your application the more likely your line manager is to be able to accommodate your preferred start date.
- Consider the financial implications of your request prior to submitting your application.
- It is to your advantage to provide as much detail as possible about the pattern you would like to work.
- Take time to consider the impact on your work colleagues if your working pattern is changed.
- Support your application by providing the perceived business benefits of approving a request for flexible working e.g. demonstrating how your request will provide extra cover at peak hours thereby improving customer service.
- Ensure you submit your application to the appropriate officer for consideration.
- If you are due to go on maternity or shared parental leave, think carefully about when to submit your application. If you intend for your request, if approved, to start on your return to work then you will need to meet your line manager during your period of maternity or shared parental leave.

The Meeting:

- Be prepared to expand on any points within your application.
- Be prepared to be flexible e.g. consideration of alternative work patterns, trial periods or alternative start dates.
- If you intend to request to be accompanied at the meeting, ensure your companion is fully briefed on your request.