



# Flexible Working

## Policy 47

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Issue Number	Date Agreed	Details of Amendments
1	05/11/20	Adopted
2	15/06/21	Checked for Accessibility Issues Reformatted styles where applicable No changes to the wording of this document have been made
3	21/9/23	Added the following: Paragraphs 1.2, 1.3 and 1.6 Paragraphs 2.2 – 2.5 Paragraph 4.6, and moved previous paragraph 4.6 to 4.7 Paragraphs 4.7 – 4.13 are now numbered 5.1 to 5.7 Paragraphs 4.14 – 4.19 now numbered 6.1 – 6.6 Paragraphs 5.1 – 5.8 now numbered 7.1 – 7.8 Paragraphs 6.1 – 6.5 now numbered 8.1 – 8.5 Paragraphs 7.1 – 7.5 now numbered 9.1 – 9.5 Paragraph 4.5 Changed TOIL to double time for hours worked on a Sunday and Bank Holiday Section 8.0 now numbered Section 21 The following new sections have been added: Sections 10 - 20

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## **1.0 Introduction**

- 1.1 The Council recognises that it may be necessary for employees to undertake work outside of their normal working hours from time to time, whether it be to carry out tasks within the scope of their role or additional duties on a voluntary basis.
- 1.2 Requests for flexible working arrangements will be considered, however will be balanced against the needs of the Council.
- 1.3 There is already flexibility within the working structure at the Council, with employees allowed access to TOIL and working from home on an ad hoc basis when necessary.
- 1.4 The purpose of this policy is to ensure that managers and employees are aware of and understand the Council's arrangements for additional hours worked and ensure fairness across all Council employees, as well as providing the criteria by which flexible working arrangements will be considered.
- 1.5 This policy must be read in conjunction with individual employee's contracts of employment, which will state if there are any variances to this policy.
- 1.6 Following this policy will ensure all employees making such requests are treated fairly and equally.

## **2.0 Scope**

- 2.1 This policy applies to all employees of the Council with the exception of those whose terms and conditions of employment do not allow for compensation for additional hours worked or those whose terms and conditions of employment clearly state an alternative arrangement for additional hours worked.
- 2.2 Any employee can make a flexible working request.
- 2.3 You are able to make one request every 6 months.
- 2.4 You may request to work flexibly for any reason e.g. reduction in hours for a better work life balance, change of working pattern to assist with caring responsibilities etc. Whatever the reason, the Council will fulfil its duty to consider it reasonably.
- 2.5 You may make a flexible working request if you want to reduce your hours to part time, change your start or finish time, have flexibility over your start and finish time, work your hours over fewer days (compressed hours) or work from home or elsewhere. You can ask for a change to be for all working days, specific days or weeks only (e.g. during school holidays) or for a limited time (e.g. 6 months).

## **3.0 Working Additional Hours**

- 3.1 It is the aim of the Council that no employees should have to regularly work additional hours in order to meet the demands of their role. It is recognised that at certain times additional hours may be necessary e.g. at financial year end, leading up to an event, due to unexpected significant circumstances arising, for example and the Council is grateful to its staff for their flexibility shown at these times.
- 3.2 It is however imperative that staff are not regularly working excessive hours and that the demands of the roles are relative to the contracted hours given to meet those demands.
- 3.3 Additional hours may be worked in three different ways:

- additional hours worked at the request of your line manager, in response to an unexpected situation that demands your time or at known busier times in workload;
- volunteering to carry out essential tasks outside that of your day-to-day duties and outside of your normal working hours;
- voluntary additional hours worked at the staff member's choice.

3.4 Section 4 below sets out the compensation due for additional hours worked depending on the circumstances through which they are worked.

#### **4.0 Compensation for Additional Hours Worked**

4.1 Additional hours at request of line manager/in response to unexpected situations/at known busier times in workload i.e. financial year end or leading up to an event

4.2 Employees requested to work additional hours by their line manager to carry out tasks in the scope of their role will be entitled to accrue time off in lieu (TOIL) on an hour-for-hour basis i.e. if you work an extra two hours, you will receive two hours TOIL in exchange.

4.3 For clarity, the above includes attendance at Council and Committee meetings, training sessions and other meetings requiring Council Officer attendance that are outside of usual working hours.

4.4 This also includes staff members attending call-outs in the line of their role; alarm call-outs at the Queen's Hall, for example.

4.5 There is no uplift in recompense for Saturday, i.e. they remain on an hour-for-hour basis, however Sundays and Bank Holiday working will be awarded at double time.

4.6 The recommended best practice is that staff members either start later in the day on this or the next day to balance these additional hours. In particular this can be easily achieved where meetings are concerned, which have been scheduled and therefore known in advance. This will also help to ensure that staff are not working an excessive number of hours in a 24 hour period and taking adequate rest breaks between shifts.

4.7 The Council realises that in the case of the Clerk, it will not be a request from a line manager that results in additional hours being worked of this nature and the Council must therefore place its trust in the Clerk that additional hours worked and claimed back as TOIL are done so reasonably and in accordance with this policy.

#### **5.0 Tasks outside of day-to-day duties**

5.1 The Council realises that at times staff will need to be asked to assist with duties that fall outside of their day-to-day roles and wants to encourage and reward staff who are able to assist and carry out these tasks.

5.2 Tasks of this nature may include (but are not limited to) assisting manage/run a Council event.

5.3 For staff members taking on duties outside of their day-to-day roles, this time may be reimbursed as paid overtime at a rate to be agreed in advance by the Clerk.

5.4 The rate agreed will be an hourly rate.

5.5 The Clerk will need to ensure fairness across all employees when agreeing pay rates and therefore it is not expected that employees will be paid at their personal hourly rate unless this is deemed to be the correct rate for the work carried out.

- 5.6 At events, in order to qualify as paid overtime the staff member must be assisting in the running/management of the event, not just manning a road closure or in attendance at the event for example.
- 5.7 This overtime will be paid with the employee's salary payment and will be subject to the usual deductions (Tax and National Insurance).

## **6.0 Additional hours worked at staff member's choice**

- 6.1 It is understood that staff members may choose voluntarily to work additional hours to carry out their work, but this is not something the Council would encourage.
- 6.2 Whilst the Council is grateful to its staff when dedication and commitment is shown in their roles, it is not reasonable for the Council to reimburse every hour a staff member works when it is done voluntarily i.e. through their own choice or because it suits them personally.
- 6.3 The Council recognises that there are core hours of work for its premises and that the Council teams operate best with the maximum amount of staff present during these core hours. The more TOIL accrued by staff members, the more said staff are likely to be absent during the core hours of operation and the Council must be mindful of this knock-on effect.
- 6.4 The Council is committed to its duty of care to its employees, in particular through ensuring reasonable working hours and manageable workloads that do not cause excessive working hours or undue stress.
- 6.5 If the contracted hours of a role are felt to not be enough to deliver on the demands of that role then it is the staff member's responsibility to report this to their line manager (in the case of the Clerk, to the Chair of HR) to enable a review of the workloads in relation to working hours.
- 6.6 Similarly, if an employee feels they are struggling to manage their time effectively, finding particular work challenging and overly time-consuming or struggling to make best use their time, this is something that should be discussed with their line manager and ways to work together to address this will be discussed.

## **7.0 Recording & Authorising Additional Hours**

- 7.1 All Council employee's hours of work outside their contracted hours are to be recorded on a timesheets; this will include all additional hours worked, even those done voluntarily i.e. through personal choice.
- 7.2 Reimbursement for additional hours will only be authorised if agreed with prior approval from the line manager or Clerk.
- 7.3 Timesheets will be submitted to the employee's line manager on a monthly basis and, where relevant, any additional hours authorised accordingly for TOIL accrual or payment.
- 7.4 Once processed by the Finance Department for the payroll, all timesheets will be reviewed with additional hours worked recorded, along with the reason and any reimbursement given.
- 7.5 This data will be shared with the Chair of HR on a monthly basis and shared with the HR Committee, as an agenda item, at least once annually but more often if felt necessary.

- 7.6 Timesheets must be submitted on a monthly basis; TOIL accrual or paid overtime cannot be authorised at a later date. Failure to have the timesheet submitted to their line manager by the last day of the calendar month for which the timesheet relates to, will result in the employee losing their claim to recompense for the additional hours worked.
- 7.7 The only exception to the above at 7.6 is where an employee is unexpectedly absent from work and therefore unable to complete their timesheet by the allotted deadline.
- 7.8 If the employee's line manager is absent for more than one week when the timesheet is due, the Clerk should sign in their absence.

## **8.0 Limitations**

- 8.1 Employees that have accrued TOIL will be limited to carry over 10 hours TOIL from one month to the next (resetting on the 1<sup>st</sup> of each month). For part time employees the limit to carry forward will be the equivalent of 30% of their contracted hours i.e. for an employee on 25 hours per week, the limit to carry forward will be 7.5 hours.
- 8.2 Anything in addition to 10 hours (or the part time equivalent) and not used by final day of the month will be considered lost and removed from the TOIL balance, unless previously agreed by the line manager to be carried forward.
- 8.3 If an employee is absent from work and unable to use their TOIL balance that month due to maternity leave, paternity leave, adoption leave, parental leave or sickness absence (the latter must be lasting one week or more), they will be permitted to carry the TOIL balance forward to the month that they return to work.
- 8.4 Upon leaving the Council's employ no employee shall receive payment for any TOIL balance held; any TOIL should be allocated during the notice period. The exception from this is where an employee is absent from work and unable to use TOIL due to maternity leave, adoption leave or parental leave; in this situation the employee may receive payment for any TOIL balance held.
- 8.5 The Council will not permit payment in lieu of TOIL balances, except where an employee's terms and conditions of employment specifically allow for this, as this does not encourage realistic management and structuring of hours and/or workloads.

## **9.0 Flexibility with Working Hours**

- 9.1 The Council recognises that unfortunately some staff members cannot be offered as much flexibility with their working hours due to business demands.
- 9.2 The Council offices operate core hours of 10am to 3pm and therefore the Council is able to offer slightly more flexibility to staff in the offices providing these core hours are adequately covered.
- 9.3 The Clerk has responsibility for ensuring that adequate office cover is available Monday to Friday and to manage this accordingly.
- 9.4 Employees should not however be working additional hours for TOIL accrual in order to build up additional days off work i.e. as a supplement to holiday entitlement.
- 9.5 The reasons for this are two-fold; firstly, this encourages employees to work longer days than usual, which is not recommended, and secondly this can lead to employees in certain roles being absent from work more often, due to their roles allowing them to work more additional hours, and the knock-on effect this has on the service delivery of the Council.

## **10.0 Before making a Flexible Working Request**

- 10.1 Some flexible working arrangement may have an impact on your pay and benefits, including your pension, and also on any state benefits or tax credits that you get.
- 10.2 If you are thinking of making a request it might be helpful to chat to your colleagues and your manager first to help understand if there are going to be any issues with what you are looking to do, so you can think about ways around it or other options.
- 10.3 If your flexible working request includes working from home, you will be expected to comply with requirements around home working such as display screen assessment, risk assessments and policies/protocols relating to use of Town Council technology and software.

## **11.0 Employee Request**

- 11.1 If you wish to adopt a flexible working pattern, you need to put your request in writing to your line manager. This written request should be as comprehensive as possible, and should include the following:
  - the date of your application
  - the changes that you are seeking to your terms and conditions
  - the date on which you would like the change/s to come into effect
  - what effect you think the requested change would have on the council and your service and how, in your opinion, any such effect might be dealt with
  - a statement confirming you are making a statutory request and if and when you have made a previous application for flexible working

## **12.0 Meeting to Discuss a Flexible Working Request**

- 12.1 Once your line manager receives your request, it should be dealt with as soon as possible, but no later than the deadline set out below. Your line manager will usually arrange a meeting with you to deal with the request.
- 12.2 Where a request can, without further discussion, be approved in the terms stated in the written application, a meeting will not be necessary and your manager will advise you. A request to change your terms and conditions will be sent to HR to action.
- 12.3 Where a meeting is required your line manager will consider the proposed flexible working arrangements carefully, weighing up the potential benefits to both you and the council, against any adverse impact of implementing the changes. Each request will be considered on a case-by-case basis: agreeing to one request will not set a precedent or create the right for another employee to be granted a similar change to his/her working pattern.

## **13.0 Outcome of a Flexible Working Request**

- 13.1 You will be informed in writing of the decision as soon as is reasonably practicable after the meeting, but no later than the deadline set out below (paragraph 15). Your request may be granted in full or in part: for example, your manager may propose a modified version of the request, the request may be granted on a temporary basis, or you may be asked to try the flexible working arrangement for a trial period. If your request is turned down we will make sure we clearly explain why and you will be given the right to appeal the decision.

## **14.0 Flexible Working Requests that are Granted**

- 14.1 If your request is approved, your line manager will discuss with you how and when the changes will take effect. Any changes to terms and conditions will be put in writing and sent to you as an amendment to your written statement of particulars as soon as is reasonably practicable.
- 14.2 You should be aware that if your application is approved, you do not have a statutory right to request another variation in contractual terms for a period of 12 months. A trial period may be agreed; this should be properly documented by your line manager.

## **15.0 Trial Periods**

- 15.1 If your request is agreed for a trial period your manager must arrange suitably timed review meetings to discuss any issues that may arise. Any problems should be addressed at the time so that discussions can be held to try and resolve these prior to the end of the trial period. If the decision of your manager at the end of this period is to decline the request you will have the right to appeal and the appeal procedure should be followed.

## **16.0 Reasons for Refusing a Flexible Working Request (Specified Grounds)**

- 16.1 Managers should consider requests to work flexibly on the presumption that they should be approved unless there is a good business reason for not doing so. Applications for flexible working arrangements can only be refused for the following reasons:

- the burden of additional costs
- detrimental impact on ability to fulfil role requirements
- lack of availability of appropriate technology or software
- detrimental effect on ability to meet customer demand
- inability to reorganise work among existing staff or detrimental impact on the workload of colleagues
- an inability to recruit additional staff
- detrimental impact on quality
- have a detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes

- 16.2 Where a request is refused, the reason for the refusal must be one of the above reasons and must be explained as set out at paragraph 13.1.

## **17.0 Timescales**

- 17.1 All requests will be dealt with within a period of three months from first receipt to notification of the decision on appeal. Your line manager should hold the meeting within 28 days of receiving the request and notify the decision to you within 14 days of the meeting, so that there is enough time for any appeal to be concluded. If you are dissatisfied with the outcome of your request you are allowed to lodge an appeal within 14 days of the notification, with the appeal to be heard within 14 days wherever possible. You will be informed of the outcome of your appeal within 14 days of the appeal meeting. These time limits may be extended where both you and the council are

in agreement. For example, there may be agreement to extend the time limit to give you a trial period on the flexible working arrangements.

## **18.0 Appeal Procedure**

- 18.1 If you wish to appeal against the decision of your line manager to refuse your request for flexible working, this has to be sent to your Line Manager or the Clerk, in writing, setting out the grounds of appeal within 14 calendar days after receipt of your line manager's decision.
- 18.2 The Line Manager or Clerk will hold a meeting with you within 14 days of receipt of your appeal letter. Within 14 calendar days of the date of this meeting, you will be notified in writing that either:
- Your appeal has been upheld and the date that the contract variation is effective from
  - Or
  - Your appeal has been dismissed, along with sufficient explanation as to why this decision has been reached.

## **19.0 Right to be Accompanied**

- 19.1 Although there is no statutory right to be accompanied, we are happy for you to be represented and/or accompanied by your trade union representative, employee representative or colleague of your choice, throughout the process. It is your responsibility to arrange your representation and if your representative is not available on the date arranged for the meeting, an alternative date must be arranged as a matter of urgency, preferably taking into account your representative's availability.

## **20.0 Withdrawal of an Application for Flexible Working**

- 20.1 Your line manager will consider that you have voluntarily withdrawn your application for flexible working if:
- they have been notified by you either verbally or in writing that you are withdrawing the application
  - without reasonable cause, you fail to attend a meeting to discuss your application on more than one occasion
  - without reasonable cause, you refuse to provide your line manager with the information required in order to assess whether the contract variation can be agreed to.

However in all cases your line manager will write and confirm the status of your application, unless you have provided written notification.

## **21.0 Implementing the Policy**

- 21.1 Any employee found to be abusing the Council's Additional Hours Policy will be dealt with in accordance with the Council's Disciplinary Procedure and may be subject to disciplinary action.
- 21.2 Hours of work are reviewed on a monthly basis by the Clerk and reported to the Chair of HR. Any concerns arising from these hours will be addressed as and when noticed, with a record of this kept securely on the employee's personnel file.