

---

## Flexible working policy and procedure

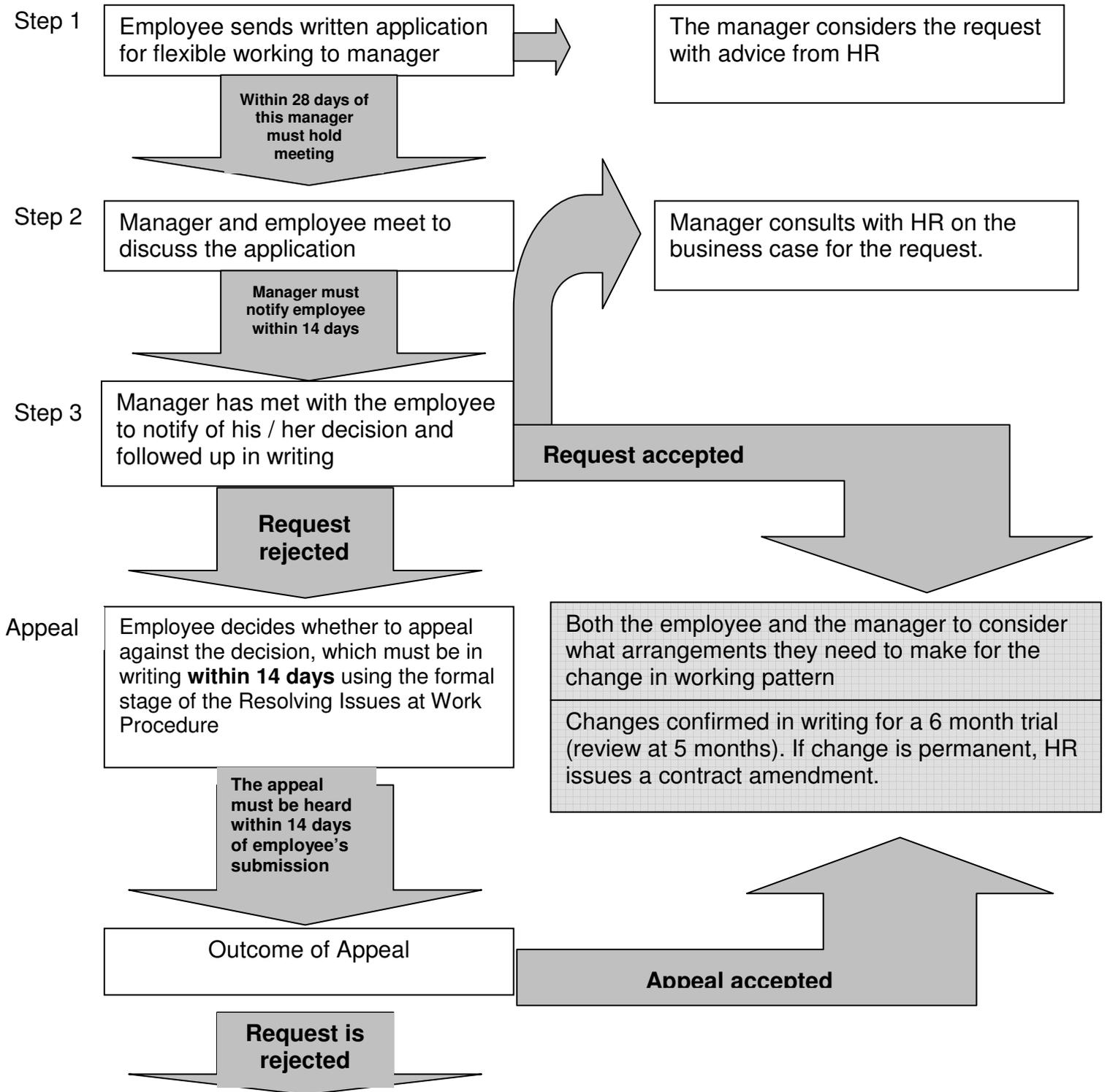
---

<b>Contents</b>	<b>Page</b>
<a href="#">Flowchart: Requesting flexible working</a>	2
<a href="#">Managers Quick Guide</a>	3
<a href="#">Scope</a>	4
<a href="#">Statement of commitment</a>	4
<a href="#">Introduction to flexible working</a>	4
<a href="#">Statutory right to request flexible working</a>	4-5
<a href="#">Requesting flexible working procedure (1)</a>	5-7
<a href="#">Requesting flexible working procedure (2)</a>	7-8
<a href="#">Flexible working in reorganisation or relocation</a>	8

Title	Flexible Working (Policy & Procedure)
Number of pages	8
Date of issue	1/11/03
Revisions/updates	20.7.09
Due review date	Tbc
Reference	Changesintheworkplace/flexibleworking/policy&procedure/20.7.09

Flexible working policy and procedure

**Flowchart: Requesting Flexible Working**



**An employee with a statutory right to request flexible working** can complain to an employment tribunal within 3 months of the request being refused, or of the manager failing to follow correct procedure.

## Manager's quick guide to flexible working requests from employees

This document is intended as a brief introduction for managers to flexible working. As your time is precious the document outlines only the main points of the flexible working scheme. Overleaf there is an at-a-glance process chart for working through the request procedure. Please seek the advice of your Personnel Services team when you are dealing with employee requests to change to flexible working arrangements.

### Who can make a request to change to flexible working?

- All County Council employees with 26 weeks continuous service have the option to submit a request to work flexibly
- All requests must be balanced with the needs of the service and not all will be viable
- Some employees, (parents of children under 16, or under 18 if the child is disabled or carers an adult) have been given a statutory right to make a request.
- However, a statutory right to make a request to work flexibly does not imply a right for the request to be granted.
- But caution must be exercised when refusing any request and, in particular, where the employee has a statutory right to make a request.
- Those employees with the statutory right may be able to take their case to an employment tribunal.
- Managers should seek the advice and guidance of Personnel staff when handling requests.
- It is recommended that both employee and their manager discuss the requested arrangements before any formal written application is made.

### What should I consider when making a decision regarding a flexible working request?

- Be open minded! There are creative solutions to be found to suit everyone.
- Consider the reason for the request, both the personal and business case made by the employee.
- Are there any unreasonable additional costs incurred other than IT equipment needed.
- Be sure there will be no detrimental impact on the service provision.
- Look at how working patterns can be reorganised to provide the service.

### On what grounds could I refuse a request?

- You could refuse a request for one or more of the following reasons (statutory criteria):
- Any additional costs involved will impose a burden.
- Agreeing to the request will have a detrimental effect on ability to meet customers/users demands.
- Agreeing to the request will have a detrimental impact on quality or performance.
- You will be unable to recruit additional staff to the work area.
- There is insufficient work during the periods the employee proposes to work.
- You have planned structural change.

**Please seek advice and support from the HR Shared Service Team.**

## Flexible working policy and procedure

---

### Scope

---

- 1.0 This policy supports flexible working affecting all employees of North Yorkshire County Council, and can be adapted to meet the particular operational circumstances of school based staff.
- 1.1 The Requesting Flexible Working Procedure applies to all employees of the County Council, unless they are specifically excluded by reason of a separate policy and procedure, for example those employed directly by schools under the Local Management of Schools arrangements.

---

### Statement of commitment

---

- 2.0 NYCC is committed to the development of innovative working practices in order to achieve excellence in service provision and work life balance for its staff. Flexible working offers different ways of working that can achieve both of these objectives, where there is a genuine business case for change.
- 2.1 A request can be made for a variety of reasons. All requests will be given the same reasoned consideration based on the merits of the business case. However, in the event that a request is refused, employees who do not have a statutory right will not have the same rights to complain to an employment tribunal. In addition, where two or more employees within one team submit a request, priority will be given to the employee's with the statutory right.
- 2.2 NYCC may ask employees to change the way they currently work, in order to support improvements to service delivery and efficiency. The development of a culture of flexible working requires every employee to be prepared to consider how he or she can do their job differently, when the need arises.

---

### Introduction to flexible working

---

- 3.1 This procedure implements the statutory legislation, and supports managers seeking to implement different working practices. It covers both the perspective of the employee who wants to change their working hours, and the manager who initiates the change for operational reasons.

---

### Statutory right to request flexible working

---

- 4.0 Employees of the County Council have the statutory right to request flexible working if they:
- are **parents** of children under 16 years old;
  - or are **parents** of disabled children under 18 years old, who is in receipt of a Disability Living Allowance (DLA);
  - or is a carer or are expecting to care for an **adult** who they are married to (or the **partner** of the adult, a **relative** of the adult or live at the same address as the adult).

The regulations make it clear that a person who is a relative of a parent is **not** eligible to make a request.

- 4.1 Employees must have at least 26 weeks continuous service when they make a request. Only service with the current employer will count for continuous service purposes and **not** previous service with other local government bodies. They must also have not made another application to work flexibly under this scheme in the last 12 months.
- 4.2 Employees must provide a copy of the child's birth certificate to determine their statutory right.
- 4.3 When applying to work flexibly for childcare arrangements the employee must make their application no later than the day before the child concerned reaches the age of sixteen, or if they are disabled eighteen.

Please refer to the [flexible working guidance](#) for statutory definitions of parent, adult, partner, special relative & guardian.

---

## Requesting flexible working procedure (1)

---

**This is the procedure for an employee who wishes to change their own working arrangements.**

### Making the Request

- 5.0 Employees should make their request at least 3 months before they would like to change their working arrangement, on the [Request for Flexible Working Application Form](#) (see toolkit) and refer to the [flexible working guidance](#). When applying to work flexibly for childcare arrangements, the request should be made no later than the day before the child concerned (where applicable) reaches the age of 16 or, if a child is disabled, the day before they reach the age of 18.

### Considering the request

- 5.1 The manager has a duty to meet with the employee within **28 days** of receiving the request, to discuss the request and any possible options and alternatives if the original request cannot be granted. The employee has the right to be accompanied by a trade union representative or colleague, who has the right to time off for that purpose.
- 5.2 Managers have a legal duty to consider all applications and to decide whether the desired work pattern can be accommodated within the needs of the business. HR can offer advice to ensure consistency and fairness across the Council.

### Confirming the outcome

- 5.3 The manager must confirm their decision in writing to the employee within **14 days** of the meeting. This may be either to:
  - Accept the request;
  - Confirm a compromise discussed in the meeting and set a date for a response; or

- Reject the request, explaining the [business reasons](#) for refusal (see below), and outline the employee's right to appeal against the decision within **14 days** of receipt of their notification.

5.4 Where recruitment is taking place in an attempt to accommodate a request, the manager should write to confirm this to the employee indicating when a final response to the request is likely. A [manager's record of flexible working](#) (see toolkit) should be completed and returned to HR.

### Agreeing a request

5.5 For those employees with a statutory right to request flexible working, the agreed new working pattern will be a permanent change to their terms and conditions unless agreed otherwise. It is generally recommended that any agreed change to the working arrangements should be for a trial period of 6 months. A review of the working arrangements should take place after 5 months.

5.6 The agreement will be confirmed in writing by the manager, describing the new working pattern, the agreed start date and the date of the 5 month review. A copy of any agreement should be sent to HR Services so that permanent or temporary amendments can be made to the employee's terms and conditions of employment. Template letters are provided in the [toolkit](#).

### Refusing a request

5.7 A request can only legally be refused for 1 of the 7 [business reasons](#) outlined below. The reason(s) for refusal will be explained by the manager to the employee in person, and followed up in writing. An employee must subsequently wait 12 months from the date on which his or her last application was refused, before making a further request.

#### **Business Grounds for Refusing a Request**

- Any additional costs involved will impose a burden.
- Agreeing to the request will have a detrimental effect on the ability to meet customers/user demands.
- Agreeing to the request will have a detrimental impact on quality or performance.
- The employer is unable to re-organise work among existing staff.
- The employer is unable to recruit additional staff.
- There is insufficient work during the periods the employee proposes to work.
- The employer has planned structural changes.

### Appeal

5.8 Employees who are unhappy with a manager's reason(s) for refusing their request for flexible working with regard to the statutory criteria for refusal, or who believe the procedure has not been followed correctly may appeal against it.

The procedure to be followed is the Resolving Issues at Work Procedure, but the statutory timescales below must be adhered to:

- The employee's appeal must be made in writing within **14 days** of receiving written confirmation of the manager's decision.

- The appeal hearing must then be heard within **14** days from when the notice of appeal is made
- And the employer has a further **14** days after the appeal hearing to inform the employee, in writing, of the decision.
- The time limits may only be extended by agreement, between the employer and the employee and this should be in writing.

- 5.9 Employees with a statutory right to request flexible working can complain to an employment tribunal. Valid reasons for complaining are that the Council:
- Failed to hold the initial meeting or appeal meeting within the request procedure;
  - Failed to provide notice of a decision in accordance with the timescale;
  - Rejected an application based on incorrect facts.

An employee with the statutory right to request flexible working who wishes to complain to an employment tribunal must do so within 3 months of the failure to follow the request procedure correctly or of the date of the request being refused.

---

## Requesting flexible working procedure (2)

---

**This is the procedure for a manager who wishes to change their employees' working arrangements.**

- 7.0 A manager may consider and implement flexible working arrangements for a group of staff, for example to meet the needs of service users or to achieve business objectives. HR can advise on the impact of changed working patterns or hours on employee's terms and conditions of employment.
- 7.1 The current working patterns of the team should be considered to identify:
- Numbers of full and part time staff, and job sharers;
  - Contractual working hours of each employee;
  - Core hours of service provision;
  - Time spent out of the office / with clients;
  - Time currently spent in the office;
  - Parts of the work that could be done from home;
  - Tasks that could be organised differently e.g. different work flow or processes, use of IT, increased client contact etc
  - Personal constraints
- 7.2 The flexible working options need to be identified. Some different forms of flexible working are described in the [flexible working guidance table](#).
- 7.3 It is important to ensure that:
- There are no unreasonable additional costs incurred other than IT or equipment set up costs;
  - There is no harmful impact on quality, performance or the ability to meet customers users needs;
  - Work and working patterns can be reorganised using existing staff wherever possible.

- 7.4 Draft proposals should be discussed with the team. HR can offer support at these meetings. Proposals will be refined to reflect the consultation.
- 7.5 When the revised working arrangements are confirmed a review mechanism is recommended, with a formal review at 5 months. Each member of staff should agree to any individual proposed changes to working hours or a change in work location. HR can advise on variations to individual contracts of employment.

---

### **Flexible working in reorganisation or relocation**

---

- 8.0 In a larger reorganisation it is useful to draw up a project plan with clearly defined rationale and objectives. HR can advise on the likely impact on employees in terms of their terms and conditions of employment, maintaining motivation and performance, and determining any resource implications.
- 8.1 It is important to allow a proper process and time for consultation on the proposals with employees and their representatives. This feedback will inform the planning and implementation of change.
- 8.2 Where a major change in working practices is proposed, affecting a large group of employees, it might be useful to set up a project team incorporating HR, Finance, ICT, Facilities Management and Risk Management, to produce a project plan.
- 8.3 A thorough risk assessment should be undertaken, and a pilot scheme can identify opportunities and threats before large-scale investment is required.