



ORKNEY
ISLANDS COUNCIL

Flexible Working

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1. Policy Statement

Orkney Islands Council recognises the needs of individuals, colleagues and the organisation for flexible working arrangements. It is recognised that enabling staff to work flexibly to achieve a better balance between home and work responsibilities has benefits for both employers (e.g. improved recruitment and retention, reduced absence rates, increased staff motivation) and employees (e.g. a more positive approach to work, reduced stress levels, more time with family/dependents) which have positive effects on the performance and productivity.

Orkney Islands Council is an equal opportunities employer and is strongly opposed to any form of victimisation of individuals who work, or request to work under flexible working arrangements. If an employee feels that they have been treated unfairly or are dissatisfied with any stage of the flexible process, they should raise their concerns informally with HR & Performance.

The Head of Human Resources and Performance will ensure that our employees have easy access to this Policy.

2. Introduction

2.1. Under provisions set out in the Employments Rights Act 1996 and regulations made under it, all employees have a statutory right to ask their employer for a change to their contractual terms and conditions of employment to work flexibly. Job Sharing will also be available to employees wishing to work flexibly which reflects the commitment to Equal Opportunities and aims to retain existing employees unable to work full-time due to domestic or other personal responsibilities.

2.2. The Flexible Working Policy will guide Line Managers through the flexible working process and explain the right to request flexible working.

3. Scope

3.1. The Flexible Working Policy and Procedures will apply to all employees of Orkney Islands Council including: Scottish Joint Council (SJC)/Single Status, employees covered by Scottish Negotiating Committee for Teachers (SNCT) conditions of service, Orkney College Academic staff and employees covered by Scottish Joint National Council (SJNC) conditions of service for Chief Officials.

4. Definition of Flexible Working

4.1. Working flexibly includes changing the hours in which an employee works, changing working times and working from home. It incorporates annualised hours, compressed hours, term time working, job sharing and part-time working. This would normally apply to posts on a permanent basis.

4.2. If flexible working is requested for a short term, for instance to cope with bereavement or to pursue a short course of study, then the Line Manager should consider this request out with this policy.

4.3. If the application is approved under the right to request, the employee does not have the statutory right to request another variation in contractual terms for a period of 12 months.

5. Eligibility

5.1. An employee with at least 26 weeks of employment service has a statutory right to request flexible working.

5.2. An eligible employee is entitled to submit one flexible working request in a twelve month period.

5.3. Employees who do not meet the above criteria do not have a statutory right to request flexible working, nevertheless, applications may be considered in exceptional circumstances.

5.4. An employee is entitled to additional requests if they relate to a statutory entitlement e.g. the Equality Act 2010 requires the Council to make reasonable adjustments.

6. Flexible Working

6.1. Flexible working is any type of working arrangement that gives some degree of flexibility on how long, where and when an employee works. It is important to note that any change which is agreed by the Council is of a permanent nature.

6.2. Some examples of the types of flexible working arrangements that may be requested are detailed below:

- Annualised hours is where employee's contractual working hours are calculated as the total number of hours to be worked over the year, allowing flexible working patterns to be worked throughout the year. Usually the hours will be divided into rostered hours, which are set, and unallocated hours, when an employee can be called into work as demand dictates (and to cover unplanned work and employee absence). Payment will be in 12 equal instalments (although arrangements may be permitted where the pay for the work actually done is in the period to which the payment relates).
- Compressed hours are where an employee works their usual full time hours in fewer days by working longer blocks meaning that there is no reduction in their pay. For example, a five-day week is compressed into four days, or a 10-day fortnight into nine days.
- Home-working is when an employee regularly carries out all, or part of, their duties from home rather than at their normal working base. Managers can consider home-working being an occasional agreed day, a mix of home and office based work each week or a full time arrangement.
- Job-Sharing is when a post is divided into two part-time roles. The two job holders then share the overall duties and responsibilities. Their skills and the hours each employee wished to work must be compatible, and meet the needs of the organisation. Pay and benefits are shared in proportion to the hours each works.
- Part-time working covers any arrangement where an employee is contracted to work anything less than typical full time hours for the type of post in question. For example, an employee who only works Monday to Wednesday.
- Term-time working is where an employee reduces their hours or takes time off during any school holidays. Any weeks taken off above their annual leave entitlement will be unpaid. Salary will be paid in 12 equal monthly instalments.

7. Procedure

7.1. Applicants should complete the application form attached at Appendix 1 and ensure that the following information is provided and given to their Line Manager.

- Confirm the employee's status.
- Explain what flexible working pattern is sought.
- Explain what affect if any the employee thinks the proposed change would have on the employer and how this effect might be dealt with.
- State the date on which the employee wishes the change to become effective.
- State whether a previous application has been made and when.

7.2. The request must be acknowledged and if there is insufficient information for the application to be considered, the employee must be notified and the shortcomings explained.

7.3. A meeting must be arranged with the employee within 28 days of receipt of the application (or a suitable application if it has had to be returned to the employee). The meeting should examine the request and its implications as well as alternatives if the Manager thinks the original request may be difficult to accommodate

7.4. The employee may, if they wish be accompanied by a work colleague of their choice or a trade union representative.

7.5. The request to work flexibly will be considered objectively by the Line Manager. The benefits of the requested changes in working times for the employee and the business will be considered and weighed against any adverse business impact. There is no statutory obligation to grant a request to work flexibly if it cannot be accommodated by the business on the grounds listed as follows:

- The burden of any additional costs is unacceptable to the organisation.
- An inability to reorganise work among existing staff.
- Inability to recruit additional staff.
- The employer considers the change will have a detrimental impact on quality.
- The employer considers the change would have a detrimental effect on the business' ability to meet customer demand.
- 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 plan.

7.6. Requests should be considered in the order they are received and Line Managers should remember that having considered and approved the first request the business context has now changed and must be taken into account when considering the second request.

7.7. Managers are not required by law to make value judgements about the most deserving request but should consider each case on its merits looking at the business case and the possible impact of refusing a request. If there are already several employees working flexibly it would be good practice to call for volunteers to change their contracts back to other arrangements thereby creating capacity for granting new requests.

7.8. Each request will be considered on a case-by-case basis. Agreeing to one request will not set a binding precedent or create the right for another employee to be granted a similar change to their working pattern.

7.9. Following the meeting, the Council's decision must be confirmed in writing to the employee within 14 days either agreeing to the change, an agreed variation of the request or a rejection. Where any change is to be implemented it will constitute a change in contract and this must be formally recorded in the usual way in which such changes are recorded. Where the request is not accepted, the response must explain the business grounds on which the decision was made and provide details of the right to appeal.

7.10. Where there is some uncertainty about whether the flexible working arrangement is practicable for an employee and/or the organisation a trial period may be agreed. A trial period of a maximum of 6 months can be arranged and will allow sufficient time for an employee and their manager to implement and become used to the new working practices before taking any decisions on the viability of a new arrangement.

8. Right to Appeal

8.1. The employee has the right to appeal the decision if their request is refused or is only agreed in part. Any appeal should be made in writing within 14 days of receipt of the decision stating the grounds on which it is made. There is no limitation on the grounds on which the appeal can be made and the effect is that any issue relating to the ability of the Council to meet the request can be re-opened if there are grounds to do so. The hearing should normally be within 28 days of receipt of the appeal and should be heard by the Head of Service, or Executive Director. The decision must be confirmed in writing within 14 days of the appeal and will be final.

9. Time Limits

9.1. The time limits can be extended for reasons of availability of the parties and by mutual agreement if more time is needed to gain information – for example if another employee needs to be contacted about the effect on them of a prospective change.

9.2. The employer must consider the whole request including any appeal within three months of first receiving the original request for flexible working unless an extension is agreed with the employee.