TONGE COUNCIL FLEXIBLE WORKING POLICY

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What is flexible working

Every staff member has a contract of employment that sets out the working hours. A request to work flexibly is a request from the employee to change either the number of working hours, when or where they are worked. Flexible working does not mean a member of staff can work the hours they wish from day-to-day, week-to-week.

Flexible working arrangements take account of employees' preferences, interests and non-work responsibilities whilst also meeting the needs of the council. Common examples of flexible working include part-time working; zero-hours / casual working; variable hours; flexitime; job-sharing; term-time working; compressed hours; career breaks; and sabbaticals.

Flexible working can result in benefits to councils, in that such arrangements can help make the most of today's diverse workforce and improve the council's ability to recruit and retain staff. It is good practice to make flexible working open to all staff.

This policy has been written to explain the process which we will use to respond to requests by staff to vary hours, pattern or place of work.

Scope

You have a statutory right to request a change to your contractual terms and conditions of employment to work flexibly from the first day of your employment, regardless of whether you work full or part-time or have a temporary contract of employment. It does not apply to agency staff.

Policy

Our policy is to comply with both the spirit and the letter of the law on the right to request flexible working. To this end its aim is to inform all staff of their right to request flexible working and to ensure those rights are understood and that staff feel confident any decisions regarding their requests will be handled objectively, fairly, free from discrimination, and that staff will not be treated detrimentally because they have asked for flexible working arrangements.

Making the request

To apply for flexible working, please provide the following information in writing, and submit this to the Clerk. In the case of the Clerk, the request should be submitted to the Chair of the Council:

- The date of the application,
- A statement that this is a statutory request,
- Details of how you would like to work flexibly and when you want to start,

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- An explanation of how you think flexible working might affect the council and how this could be dealt with, e.g. if you're not at work on certain days, and,
- A statement saying if and when you've made a previous application.

You can make two statutory requests in any 12-month period. You are asked to let us know if you are making the request because you consider the change could be a reasonable adjustment to support a disability.

Responding to your request

Once we receive your written request, we will arrange a discussion with you as soon as possible, unless we agree immediately to your request. It may be that we need to ask you to supply further details before the meeting. If there is likely to be a delay in discussing your request, we will inform you. You may be accompanied at the meeting by a work colleague.

Having the right to request a change to your working arrangements does not necessarily mean that your request will be accepted. Your request will be fully discussed at the meeting. We will carefully consider your request looking at the benefits of the requested changes on working conditions for you as an employee and the council and weighing these against any adverse impact of implementing the changes.

Having considered the changes, you are requesting and weighing up the advantages, possible costs and potential logistical implications of granting the request, we will write to you with the decision. The decision will be either:

- To accept the request and establish a start date, with or without a trial period and review date. Where the request is granted, we will set out what changes will be made to your terms and conditions of employment, or,
- To propose an alternative, which may require further discussion, or,
- To confirm a compromise agreed at the discussion, or,
- To reject the request, setting out the reasons, how these apply to the application and the appeal process.

Requests to work flexibly will be considered objectively, however we may not always be able to grant a request to work flexibly if it cannot be accommodated. If we turn down your request, it will be because of one, or a combination of the following reasons, and we will explain why.

- The burden of additional costs is unacceptable to the council
- Detrimental effect on the council's ability to deliver for the community
- Inability to re-organise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality

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- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes to the council

If you are only looking for an informal change for a short period to your working hours or conditions, for instance to pursue a short course of study, we may consider allowing you to revert back to your previous conditions after a specified period, e.g. three months, or after the occurrence of a specific event, such as the end of a course of study.

You must be aware that if your request is approved you only have the statutory right to make two requests in a 12 month period, although you may still ask without the statutory right.

Timeframe for dealing with requests

We will do what we can to respond to your request as soon as possible although the law requires the consideration process to be complete within two months of first receiving a request, including any appeal. If the request cannot be dealt with within two months, we may ask to extend the consideration process, provided you agree to the extension.

Handling requests in a fair way

We may receive more than one request to work flexibly closely together from different employees and it may or may not be possible to accept all requests. If we agree to a request for flexible working arrangements this does not meant that we can also agree to a similar change for another employee. Each case will be considered on its merits looking at the business case in the order they have been received. We may need to take others' contractual terms into account and we may ask you if there is any room for adjustment or compromise before coming to a decision.

Appealing the decision

If we decline your request and you wish to appeal, you must do so, in writing, within 5 days of receiving the letter informing you of the outcome. We will then write to you to arrange a meeting to discuss your appeal. This meeting will be held as soon as reasonably possible and will normally be with a sub-committee of councillors. You may wish to be accompanied at that meeting by a work colleague.

There may be circumstances when the council is unable to meet within the required timeframes, in which case a meeting will be held as soon as is practically possible.

The effect on your contract of employment

Any change in your hours or pattern of work will normally be a permanent change to your contractual terms and conditions. This means that you will not automatically be able to revert back to the previous working pattern (unless otherwise agreed). So, for example, if your new

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flexible working pattern involves working reduced hours, you will not automatically be able to revert to working full time hours.

Changes to your working pattern may affect other terms and conditions of employment. For example, reducing your hours of work will mean that your pay and leave will be pro-rated accordingly. Your pension may also be affected.

Any changes to your terms and conditions as a result of a change to your working pattern will be confirmed in your decision letter, however if you have further queries about how a proposed change to your pattern of work might affect your terms and conditions please speak to the Clerk or Chair of the Council in the first instance.

Data protection

When managing a flexible working request, we will process personal data collected in accordance with the data protection policy. Data collected from the point at which we receive a flexible working request is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their request for flexible working. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary procedure.

This is a non-contractual procedure which will be reviewed from time to time.

Date of policy: December 2019
Approving committee:
Date of committee meeting:
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Supersedes: [Name of old policy and reference]
Policy effective from:
Date for next review:

— policy ends here —

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Notes

The wording of this policy is based on an employee's statutory right to make a request to change their working arrangements. Adopting and applying this policy as it stands will support the council to comply with this right.

1. Scope

The statutory right is from the first day of employment for all staff.

The statutory right is 2 request per 12 months. Councils can, if they wish, consider requests made more frequently.

2. Considering requests

Employers are not compelled to agree to flexible working requests. The policy sets out some reasons that may mean the request cannot be accepted. This list is based on the legislation. Employers must carefully consider the request, but if the proposal is likely to lead to difficulties with the operation of the council, you should discuss the problems, see if they can be reasonably mitigated, but if not, you can decline the request.

With the exception of a request to support an employee with a disability (see below), the reason for the request should not affect whether the council accepts or declines a request.

Important note: If a request has been made to support the health and wellbeing of a staff member, then this may be considered to be a 'reasonable adjustment'. Employers have a legal duty to consider making changes to work arrangements to prevent disadvantage to a disabled worker. If an employer does not consider making such 'reasonable adjustments', or doesn't implement such adjustments, this may lead to unlawful discrimination.

A disability is a physical or mental impairment which has a substantially adverse and long-term effect on their ability to carry out normal day-to-day activities. A 'reasonable adjustment' may be to allow an employee with long-term anxiety to arrive at work 30 minutes late to avoid rush hour.

Please refer to ACAS (www.acas.org.uk/disability) for further information.

3. Fairness

You may receive a flexible working request from one team member, agree to the request and confirm the changes to their contract. You may then receive a similar request from another team member doing the same job. Your agreement to the first request does not mean that you have to agree to the second request. Each request will need to be considered against the contractual arrangements in place.

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4. Trial period

If you are not sure whether a proposed working pattern will work, you can agree to a trial period to test it out. If you do so, it will be important to put this in writing and be clear about the duration of the trial and that the working pattern will automatically revert to the previous arrangements unless the council agrees to the contrary.

5. Written outcome

If a request is agreed on a temporary or permanent basis, it will be important to confirm the outcome in writing and ensure this is placed on the HR file. If there is a change to the terms set out in the employment contract (whether temporarily or permanently), it will be important to issue a letter to confirm the changes that have been agreed.

More information

ACAS has published a statutory code of practice that lays down the principles that employers should follow when dealing with requests for flexible working.

See ACAS (www.acas.org.uk/index.aspx?articleid=1616) for more information.

Guidance

Where there is text in [square brackets] this part may be updated or be deleted if not relevant. An alternative option may have been provided.

Important notice

This is an example of an employment policy designed for a small council adhering to statutory minimum requirements and does not constitute legal advice. As with all policies it should be consistent with your terms and conditions of employment.

This document was commissioned by the National Association of Local Councils (NALC) in 2019 for the purpose of its member councils and county associations. Every effort has been made to ensure that the contents of this document are correct at time of publication. NALC cannot accept responsibility for errors, omissions and changes to information subsequent to publication.

This document has been written by the HR Services Partnership – a company that provides HR advice and guidance to town and parish councils. Please contact them on 01403 240 205 for information about their services.