

FLEXIBLE WORKING POLICY**TEACHING STAFF AND OTHER STAFF SUBJECT TO SNCT TERMS AND CONDITIONS****1. Introduction**

1.1 Every employee, no matter the reason now, has the statutory right to, request to work flexibly providing that the following criteria have been met and an employee:

- Has 26 weeks of continuous service
- Is an employee, not an agency worker
- Has not already made a request for flexible working within the last 12 months

(Previously statutory requests for flexible working only applied to parents of children aged 16 or under or parents of disabled children under the age of 18 or you were a carer who cares, or expects to be caring, for an adult who is a spouse, partner, civil partner or relative; or who although not related, lives at the same address. Statutory requests for flexible working now apply to all employees who meet the above criteria).

2. Policy Statement

2.1 In line with statutory requirements and good practice Midlothian Council is committed to helping its employees achieve a satisfactory work life balance through the provision of flexible working. Midlothian Council will consider every application for Flexible Working, even where the statutory criteria have not been met.

2.2 Employees wishing to apply for flexible working can be assured that decisions regarding their requests will be handled objectively, fairly, consistently and promptly, in accordance with the timelines detailed in this policy.

2.3 Applications for flexible working can only be refused where there is a clear business reason for doing so.

2.4 Flexible Working can refer to a variety of different, non-standard working patterns. Some examples are:

- Part time Working- a contract that offers individuals the opportunity to work a percentage of standard weekly hours.
- Flexible Working Hours - the opportunity to accrue and vary hours within a predefined working day. Hours accrued can be 'banked' against a need to take time off or vary the hours worked during the week. This option is not available to teaching staff or music instructors. (For more details see Flexible Working Hours Scheme).
- Compressed Hours - the mechanism that allows an individual to work contracted hours over a shorter working week.
- Variation in Contract Hours - subject to the maximum contracted hours for a post, an employee may work more or less hours per week either on a temporary or permanent basis.
- Term Time Working- may be considered in order to reduce the weeks worked each year to 'match' term dates.
- Flexible Retirement - (applicable to Local Government employees, including music instructors) this is a process which is initiated to alter the working arrangement in such a way as to reduce their salary by at least 20% in order that an employee can continue working and draw their pension at the same time. (Further details are available from Lothian Pension Fund and/or Human Resources).
- Phased Retirement (for teaching staff) – this is a process which is initiated to alter the working arrangement in such a way as to reduce salary by at least 20% in order that an employee can continue working and draw pension at the same time. (Further details are available from the relevant Pension Provider (SPPA) and/or Human Resources)
- Home Working - the opportunity to work from home to do part or all of the job role. (As part of their National Conditions of Service, all tasks which do not require the teacher to be on the school premises can be carried out at a time and place of the teacher's choosing: teachers will notify the appropriate manager of their intention in this respect. Making use of this SNCT condition does not require an application under the terms of the Flexible Working Policy).
- Job Share - the opportunity for an individual to share a full time job with another individual seeking similar arrangements.

- Career Break - the process by which an employee can take leave of absence while still remaining employed. Those employees covered by SNCT/MNCT are advised to refer to the appropriate conditions of service and agreements for further guidance.

The range of options available is neither prescriptive nor exhaustive.

- 2.5 This policy links directly to the Council's commitment to provide the opportunity, in line with the principles and aims of the People Strategy, to allow the Council to recognise and support the different needs of its employees and make maximum use of talent.
- 2.6 Responsibility for granting applications for Flexible Working lies with the line manager. There must however be sound business reasons for refusing an application.

3. SCOPE

- 3.1 This Policy applies to all Midlothian Council employees including Teachers and those on SNCT terms and conditions.
- 3.2 An application can be made in respect of any person/ post. However, in all cases, consideration will need to be given to each application in terms of business needs the impact on service users including, where applicable pupils, and overall feasibility.

4. PROCEDURE – MAKING AN APPLICATION

- 4.1 The employee should first complete an application to work flexibly, and discuss and explain in more detail with the line manager the intentions and thoughts around why s/he wishes to work flexibly. The employee should provide sufficient information to support her/his case. The discussion should involve the benefits to the employee, the possible consequences, in respect of for example, workload and how it might affect the team/department/establishment etc.
- 4.2 Once an employee has had a discussion the line manager should then confirm the new arrangements that have been agreed. S/he can then confirm agreement and enact it by forwarding appropriate notification in writing to Human Resources. (It should be noted that in line with statute on flexible working an employee can be accompanied at any such meetings if they so wish or where deemed necessary).
- 4.3 If agreed the change may either be a permanent or a temporary change to the contracted hours depending on the outcome of the discussions. Where the application has been granted, the employee may make a subsequent request where new circumstances arise to either reduce their hours or to increase their hours appropriate to either further reduce their hours or to increase their hours back to their previous contracted hours. Any such further request will be decided on its own merits.

- 4.4 Statute requires that all requests must be considered and decided upon within a period of three months from first receipt, unless there has been an agreed extension between the applicant and the line manager.

5. PROCEDURE – APPROVING AN APPLICATION

- 5.1 Managers should note that, if it is agreed to allow an employee to work flexibly a requirement will be to forward a copy of the written notification confirming agreement to Human Resources so that they may note the changes on file. An online [CHANGES ITrent Form](#) confirming the new pattern of working should also be completed. In turn Human Resources will confirm contractual changes to the employee.
- 5.2 Managers should note that timescales for dealing with an application can be extended in two ways:
- With the agreement of the individual
- OR
- If either party is absent, the period in which the meeting should be arranged will begin on the day of the return or within, a 3 months after the application is made, whichever is sooner.
- 5.3 As a manager there is a responsibility to consider all changes to working patterns in advance, taking into account the effect these will have on service delivery and the needs of the business. Where a business area/school is likely to receive a number of requests at any one time, a view should be sought from the appropriate Head of Service in order to ensure consistency of approach and fairness in treatment.
- 5.4 All requests no matter the reason should be considered objectively and with sensitivity.
- 5.5 The provisions of the Equality Act 2010 require equal and consistent treatment of requests from all individuals who have protected characteristics which include age, disability, gender, maternity and pregnancy, race, religion, sexual orientation, marriage or civil partnership.
- 5.6 When dealing with such requests managers should be aware that the contract status of the postholder should have no bearing on the outcome and the request should receive the same consideration, irrespective of contractual status, after 26 weeks of continuous service (as defined in the relevant national conditions of service).
- 5.7 When considering a request, the manager, should give careful consideration to the following:

- Whether the work can be carried out in a more flexible way
- The likely effects on customer service
- Any costs and whether they will be prohibitive
- Any other steps which will be required if the request is granted
- How you will supervise and evaluate the new arrangements
- The impact of the change on the rest of the team/department/school
- When you will review the planned flexible arrangement if agreed.

5.8 A meeting should take place with the employee to discuss their request within 28 calendar days of the request being received in writing.

6. PROCEDURE – REFUSING AN APPLICATION

6.1 In line with statute a request no matter the reason must be seriously considered, and only rejected if there are good business reasons for doing so. The statutory reasons for refusal can be one or a combination of the following:

- Burden of additional costs
- Inability to reorganise work among existing staff
- Detrimental impact on quality
- Detrimental impact on performance
- Detrimental effect on ability to meet customer demand
- Insufficient work for the periods the employee proposes to work
- A planned structural change to the business/organisation.

6.2 If as a Manager you have fully considered an application and you wish to refuse a request to work flexibly you should, in addition to completing the relevant section of the Application Form, discuss and write to the employee the full reasons for refusal:

- Stating the grounds why the application has been rejected
- Explaining why the reasons apply
- Setting out clearly the appeals procedure

The letter should be dated and a copy sent to OD/HR Services.

6.3 The reply should be sent within five working days of verbally advising the employee of the refusal.

6.4 The explanation should be simple, in plain English and avoid jargon. It should clearly relate to the situation in the work area, refer specifically to the business grounds and be relevant to the request.

7. APPEALS

- 7.1 All employees have the statutory right to appeal a decision following a refusal of their application. The appropriate manager must advise any employee of their right to appeal against the decision which must be in writing to their own manager.

In the case of teachers and music instructors the appeal should be made in writing to the Head of Education. The appeal will normally be heard by the Head of Education. Where necessary the Head of Education will nominate an appropriate representative to chair the appeal who will not have a direct link to the school at which the Teacher resides.

8. PROTECTION FOR APPLICANTS

- 8.1 You will not be subject to detriment because you have:

- Applied to work flexibly
- Your application has been successful or unsuccessful; **or**
- If you intend to appeal a decision

9. MANAGEMENT RESPONSIBILITIES

- 9.1 Managers have a responsibility to:

- Consider any request for flexible working carefully.
- Deal with requests within prescribed timescales.
- Ensure that a consistent approach has been applied.
- Seek appropriate guidance from Human Resources if necessary.

10. EMPLOYEE RESPONSIBILITIES

- 10.1 Employees have a responsibility to:

- Provide full details in writing to support a request for flexible working
- Demonstrate how the change will affect the service provided by their team/department/school showing how any difficulties can be overcome and advantages maximised

11. EQUALITY IMPACT ASSESSMENT

11.1 Midlothian Council recognises its responsibility to ensure that no-one is discriminated against or disadvantaged on the grounds of any protected characteristic and this policy has been screened through an Equality Impact Assessment to ensure equality of opportunity.

12. POLICY MONITORING AND REVIEW.

12.1 The Council reserves the right to review and alter the policy in light of experience and any changing circumstances. The Council will, under such circumstances, consult with the recognised trade unions.

Name of Employee:	
Payroll Number:	
Job Title:	
Current Work Location:	
Division:	
Start Date with Midlothian Council:	
Date request submitted:	
Date of any previous application for flexible working:	

Please give details of the following:

- Which type of flexible working practice option is being applied for:
(Please describe)

- Please indicate below whether this change is requested on a temporary or permanent basis. (If temporary how long for?).

- The change requested i.e. hours/ the pattern of working the FTE you wish to apply for. If you have preference for days to be worked please give details below. For teachers in secondary schools the timetable will be a major factor and it may not be possible to indicate days at this stage. If this is the case then please leave this section blank and provide the information as soon as you are able.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

- The benefits of flexible working to both you and your department/school are:

- Outline any disadvantages and how you and your line manager aim to overcome these.

- Please detail any resource requirements/cost implications.

I wish my new working arrangements to take effect from _____.

I have seriously considered the effects of my request on the service provision and in my opinion there will be no effects on the service.

OR

I have seriously considered the effects of my request on the service provision and in my opinion the service may be affected in ways which may be overcome by the following adjustments *

(Should it be necessary further details should be attached to your application)

Is your request made under the statutory provisions for flexible working?
YES/NO

The eligibility criteria for this are:

You have 26 weeks continuous local government service and have not made a request to work flexibly under this right during the past 12 months.

If your request does not meet the eligibility grounds for the statutory right to have your request considered then you should indicate the reason for your request:

Has a previous request for flexible working been made in the last 12 months:
YES/NO

(if YES provide date of previous request: _____).
If the answer is yes please detail what has changed.

Employee signature: _____

Date: _____

TO BE COMPLETED BY THE LINE MANAGER

Date application received: _____ Date of meeting; _____

Outcome of meeting:

Was the request approved?

YES

/NO

If no, please give details to objectively justify the decision.

Name of Manager: _____

Post Title: _____

Signature: _____

Date Application Form forwarded to the OD/HR Service (with the appropriate paperwork to change contractual/payment arrangements):

Appendix 2

Frequently Asked Questions

Q. How likely is it that an application will be accepted?

A. Providing the applicant is an employee and meets the criteria of 26 weeks' of continuous service and an application has not been made to work flexibly in the last 12 months. An application will only be refused where it can be justified that there is:

- The burden of additional costs
- An inability to reorganise work among existing staff
- A detrimental impact on quality
- A detrimental impact on performance
- A detrimental effect on ability to meet customer demand
- Insufficient work for the periods the employee proposes to work
- A planned structural change to the business/organisation.

Q. Can an employee appeal against a refusal of a flexible working request?

A. Yes an employee can appeal against a decision made by a line manager who should advise an employee of this in any discussion and subsequent correspondence advising an employee of the outcome of a decision.

Q. Does an employee have the right to be accompanied at meetings/ discussions that they have with their line manager?

A. If they wish an employee can be accompanied at a formal meeting to discuss a flexible working application but in most cases this will not be necessary and can simply be agreed between the employee and line manager. It may however be required where an application is likely to be refused. The employee and her/his representative would need to be provided with objective justification for this as described above.

Q. Can I change my mind after submission of an application if my circumstances change?

A. Yes however this should be discussed with your line manager as soon as possible.

Q. Is there a restriction on how many times an application for flexible working can be submitted?

A. An application can only be submitted once in any 12 month period.

Q. Is there a reason why a colleague in the same department was granted flexible working and one was not?

A. All decisions are based on business need and there will be a reason for not agreeing to all requests in circumstances where it is not operationally feasible to do so.