**Flexible working**

The RBKC procedure for making and considering requests for flexible working is set out below. More guidance about entitlement to flexible working and the rules that govern it is provided in the Council’s booklet “Family Friendly Framework” which is available elsewhere in the Knowledge Base.

There is a separate document in the Knowledge Base about the formal flexitime scheme in operation in RBKC.

# **REQUESTING FLEXIBLE WORKING**

# **PART ONE: PROCEDURE FOR EMPLOYEES**

## Introduction

1.1 The Council has introduced policy guidance and a procedure for employees in line with legislation which cover the rights around requesting flexible working arrangements.

1.2 An agreed change to your working arrangements will normally be permanent (following a 3-month review). A subsequent change in the new working arrangements can only be made through agreement between both management and the employee concerned.

## Eligibility

1.3 You need to have completed 6 months’ satisfactory service with the Council. You will then be able to make an application requesting a change in your working pattern. However, you may make only one formal application in any 12-month period.

### What is flexible working?

1.4 Here are some examples of flexible working:

* Job sharing
* Staggered hours
* Term-time working
* Permanently reduced hours
* Flexi-time
* Change in location / home working
* Annualised hours

## 1.5 If you think that you would possibly like to change your working pattern, it would be advisable first to meet informally with your manager. The purpose of the meeting would be to explore the suitability of any identified flexible working options. Any options discussed would not be binding on either party at this stage.

## How to request a flexible working pattern

1.6 A formal application for flexible working must be made in writing and then submitted to your line manager. In your written application you should include the following information:

* What type of flexible working arrangement you are seeking (home working, reduced hours, term time only working, job share, annualised hours, or other)
* The exact details of the arrangement being requested
* Whether you are seeking a permanent or a temporary change
* How you think your proposal would fit in with the needs of the service and how your manager could address any effect on service provision
* Your proposed starting date for the arrangement
* Any further information that you feel is relevant and would be helpful in considering your request

### Decision Process

1.7 After receiving your written application, your manager will meet with you to discuss your proposal. This meeting will take place **within 28 days**. You have the option of being accompanied to the meeting (by a TU representative or work colleague). If you fail to attend this meeting, or if you do not meet any reasonable request to supply additional information required to make a full assessment of your request, your manager may consider that you have withdrawn your application. This will then be confirmed to you in writing.

1.8 There may be a few areas in the Council where a different pattern of working may not be readily accommodated because of service requirements. Any refusal of a request must be based on one or more of the following reasons:

* Additional costs would pose too great a financial burden.
* Ability to meet customer demand will be seriously affected.
* Inability to distribute work amongst existing staff.
* Inability to recruit extra staff.
* Agreeing the request would have an adverse effect on quality/performance of the individual or the section
* Demand is greatly reduced during the time employee proposes to work.
* Planned changes in the organisational structure will be taking place.

#### Notification of outcome

1.9 A written decision on whether your formal request will be accepted must follow **within 14 days** of meeting your manager. Outcomes could be as follows:

1.10 **If your request is agreed:** Your manager confirms this to you in writing along with the agreed start date and any other details relating to your new working arrangements (e.g. how the new working pattern will operate, implications for current conditions of service including annual leave, pension, etc.).

1.11 Please note that normally there will be a review of new flexible working arrangements after an initial period of 3 months. This gives both parties the opportunity to discuss how the new arrangements are working out and to agree any necessary changes, e.g. before the arrangement is confirmed as being permanent. A permanent change requires either a letter confirming a variation in your employment contract with the Council or a new employment contract.

1.12 **Your request is not agreed:** Your manager must give you written details of the reasons why it was not considered workable. This may include additional relevant information that will help you to understand the decision reached. You have the right to appeal.

### Appeals

1.13 Appeals should be submitted in writing to the next level above your line manager **within 14 days** of the date you received your manager’s decision. Your appeal can cover the outcome of your request or any concerns about how the procedure has been applied in your case. An appeal meeting will take place **within 14 days** after your notification of appeal has been received. You will be informed in writing of the outcome of the appeal **within 14 days** after the date of the meeting.

1.14 **This is the only stage of appeal within the Council**. Employees who meet the statutory criteria have the option of having their case considered by an employment tribunal.

## Exceptions to timescales

1.15 Timescales in this procedure can only be varied following agreement between you and your line manager. Your manager will confirm full details of any agreed extension to you in writing, including the period to which the extension relates and its end date. Advice should be obtained from the BT Shared Service Centre in the first instance if there is any uncertainty about how to proceed.

**Subsequent changes**

1.16 Any subsequent change to working arrangements will only take place if both the individual and the manager agree.

**PART TWO: GUIDANCE FOR MANAGERS**

## Overview

1. The employee must have completed 26 weeks’ service with their employer before a request for flexible working can be made. (Agency workers are excluded from these rights.) Employees who qualify do not have an automatic right to work flexibly. However, their requests must be considered.
   1. This guidance and the associated procedure for employees incorporate the requirements of the statutory regulations. Therefore, it is important for managers to follow this guidance closely to guard against claims to employment tribunal of unfairness or a legal breach from employees who are covered by the regulations. An employment tribunal which finds in favour of an employee can order an employer to;

* Reconsider an application or
* Pay an award of up to eight weeks’ pay to the employee

The procedure and guidance also form an effective framework that will ensure good practice in dealing with flexible working requests.

### Recommended approach

2.2 Managers should ensure that employees are aware of the Council’s firm commitment to making non-standard working arrangements accessible and should try to have informal team discussions about how different patterns of working could fit in with meeting service needs. Managers will also need to take an overall, ongoing view about how flexible working is being operated in their areas of responsibility.

2.3 The procedure for requesting flexible working is easy to follow and should ensure that the process is open, inclusive and informative. This guidance exists to supplement the procedure to aid you in dealing with the requests you receive in an even-handed, approachable and practical way.

# **Advice on the decision process**

2.4 When you receive a formal request for flexible working, you may wish to discuss the new working pattern requested within the team concerned to help identify ways in which service needs can still be met. This would also allow other interested and eligible staff the opportunity to explore with management how the proposed new working pattern would meet their own needs.

* 1. Once the request has been agreed, the arrangement will need to be confirmed in writing to the employee. Please note that a permanent change requires either a letter confirming a variation in the employment contract with the Council or a new employment contract.

2.7 **Where a change in working pattern affects the employee’s salary, e.g. a reduction in hours, managers must complete the necessary documentation via the Aggresso system. If you need information or guidance about this please contact the BT Shared Service Centre in the first instance.**

2.8 It is recognised that there may be a few areas of work in the Council where a different pattern of working may not be readily accommodated because of service requirements. When you receive an application, if you have sound reasons to believe that this applies to your area of responsibility, you will need to inform staff of why the proposed type of flexible working would not meet service needs and exactly where you believe that changes in working patterns would not be feasible. You should note that employees who meet the statutory eligibility criteria could still formally apply for flexible working in your area and you must consider their request.

2.9 After having received an employee’s written request, a meeting with the employee must take place **within 28 days**.

# **Reasons for refusal**

2.10 Any refusal of a request for flexible working must be based on one or more of the legal exceptions (see below). If you are not sure whether any of these reasons clearly apply, you should contact the BT Shared Service Centre in the first instance for guidance.

2.11 The Council has adopted the legal exceptions for refusal of a flexible working request. This means that where a request for flexible working is being refused, at least one of these grounds must apply:

* Additional costs would pose too great a financial burden.
* The ability to meet customer demand will be impaired.
* Employer’s inability to distribute work amongst existing staff.
* Employer’s inability to recruit extra staff.
* Quality or performance will be affected detrimentally by agreeing the request.
* Demand is greatly reduced during the time the employee proposes to work.
* Planned changes in the organisation’s structure will be taking place.

**Reviewing new Flexible Working arrangements**

2.12 You should review new flexible working arrangements after an initial period of three months. Both parties will then have the opportunity to discuss how the new arrangements are working out and to agree any necessary changes, e.g. before the arrangement is confirmed as being permanent. There is the possibility that the employee’s personal circumstances may have changed during this period of time, for example, or they may discover that their new working pattern is not suitable after all. This review will allow discussion of possible changes to support flexibility or a return to the original working pattern where appropriate.

**Termination of agreed Flexible Working arrangements**

2.13 It is anticipated that an agreed arrangement for flexibly working would normally only be ended where the employee withdraws their request before the new arrangements have commenced and remains on their original contract conditions. (Statutory requirements allow this to happen without penalty to the employee.) It would be reasonable to consult employees who enjoy flexible working arrangements if there are proposed changes in the organisational structure that may directly affect them. However, this would not give these employees the right to revert to their original contractual arrangements.

2.14 Termination of flexible working arrangements must be recorded in writing with reasons and any other relevant information.