

**FLEXIBLE WORKING POLICY AND PROCEDURE**

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## **FLEXIBLE WORKING POLICY**

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### **1.0 INTRODUCTION**

1.1 All employees have the right to request flexible working – not just parents or carers. This is a day one right and employees do not need to have served any specific time with the Council.

1.2

Employees can request to:

- change the number of hours they are required to work;
- change the times they are required to work;
- work from home or an alternative place of business of the employer (whether for all or part of the week).

1.3 This covers working patterns such as annualised hours, compressed hours, flexitime, home working, job-sharing, self-rostering, shift working, term-time working and part-time or reduced hours. Please refer to Appendix A for more information.

1.4 The Council/Governing Body has a duty to consider all requests seriously; refusal should only be for clear business reasons.

1.5 Legislation states that a request to undertake flexible working should be a permanent variation to contract however the Council/ Governing Body will consider temporary requests.

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### **2.0 WHO CAN APPLY**

2.1 The right applies to all BMBC employees, including those employed in locally managed Schools. Employees can make two applications to work flexibly under this policy within a 12-month period.

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### **3.0 SERVICE PROVISION**

3.1 Managers/ Headteachers are responsible for the delivery of Council Services and employee supervision; all of these aspects need to be addressed when operating flexible working arrangements.

3.2 Managers/ Headteachers must ensure all Council Services are resourced to a level necessary to provide a comprehensive level of service to customers. Services must not be reduced, or suffer in any way as a result of flexible working.

3.3 Flexible working arrangements must be governed by the demands of the service. The wishes of the individual employees should be taken into account wherever possible. As service delivery must be maintained, it may be necessary to examine some posts or groups of posts to decide if flexible working can be applied fully, partially or not at all.

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### **4.0 MAKING AN APPLICATION**

4.1 The employee must apply in writing (which includes e-mail) using the Flexible Working: Application Form FWR1. The employee is required to state the following:

- that this is an application under the legal right to request flexible working;
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- whether a previous application has been made and if so when;
- set out the change applied for, e.g. a new working pattern, and the date they wish it to become effective;
- be signed and dated.

4.2 The completed form should be handed to their Line Manager/ Headteacher for consideration.

4.3 An employee may have only one live request for flexible working at any one time. Once a request has been made, it remains live until any of the following occur:

- a decision about the request is made by the employer
- the request is withdrawn
- an outcome is mutually agreed
- the statutory two-month period for deciding requests ends

A request continues to be live during any appeal or any extension to the statutory two-month decision period that an employer and employee may have agreed.

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5.0 **CONSIDERING THE APPLICATION (See flow chart)**

5.1 *The Initial Request* - should ideally be considered by the Line Manager/ Headteacher within 28 days of an application being received. If there are any issues that need to be discussed a meeting should be held with the employee.

5.2 Legislation requires that a Manager/ Headteacher must ensure that the initial request including any appeal should be concluded with a two-month period.

5.3 If FWR1 is approved by the manager then the form should be signed and sent to the Head of Service for consideration.

5.4 *Right to be Accompanied* - An employee is entitled to be accompanied at the meeting by a work colleague or designated Trade Union/ Professional Association Official. However, this right does not extend to family/friends or professional persons such as solicitors and barristers.

5.5 *Reply to employee* - It is recommended that the employee is informed of the Head of Service's/ Governing Body's decision within 10 working days of the meeting being held. A request must not be rejected without first consulting with the employee. The Flexible Working: Application Form FWR1 provides a formal means of communicating the decision to the employee. If the request is approved by the Head of Service then the Line Manager should complete the Variation to Contract (VC02) form.

Valid grounds for rejecting a request could be:

- the burden of additional costs;
- detrimental effect on ability to meet customer demand;
- inability to reorganise work among existing staff;
- inability to recruit additional staff;
- detrimental impact on quality;
- detrimental impact on performance;
- planned structural changes (this can only be justified if the changes are imminent or within the approval system).
- Insufficient work for the periods the employee proposes to work

- 5.6 The Manager/ Headteacher is therefore expected to consider all reasonable ways of accommodating these requests.
- 5.7 Managers/ Headteacher must provide a reasonable explanation to the employee if an application is not supported for business reasons.
- 5.8 All scanned documentation should then be placed on the employee's electronic record by the Line Manager Further guidance is available in the Employee Record Policy which also includes advice on the retention of documents.
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## 6.0 **WITHDRAWAL OF APPLICATION**

- 6.1 If the employee verbally withdraws their application they must confirm this in writing. Employees can only make two applications to work flexibly within a 12-month period. Any withdrawn application is included in this entitlement.
- 6.2 Where the employee fails to meet their responsibilities the Council may also treat an application as withdrawn. This will apply when an employee fails more than once to attend a meeting without reasonable cause or unreasonably refuses to provide their Line Manager/ Headteacher with information the Council requires to assess whether the contract variation can be agreed to.
- 6.3 In both these circumstances, the Line Manager/ Headteacher must issue written confirmation to the employee stating that the application has been withdrawn.
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## 7.0 **APPEAL**

- 7.1 If an employee is not satisfied with the decision taken with the 'Flexible Working Policy and Procedure, then they will have the right to appeal through the following appeals procedure.

An employee has a right of appeal if they feel:-

- the procedure was not properly followed
- business reasons were not sufficiently explained
- incorrect fact stated in the business reason explanation

- 7.2 The employee must submit a signed notice of appeal, using the Flexible Working: Appeal Form FWR2, to the appropriate Service Director/ Chair of Governors within 10 working days of receiving the original response to their request.
- 7.3 The Service Director/ Chair of Governors would meet with all the relevant parties, including the Manager and Head of Service who will be required to explain their initial decision.
- 7.4 Following an appeal meeting, the written decision of the Service Director/ Chair of Governors **must** be given to the employee within 10 working days. If the Service Director/ Chair of Governors uphold the decision to reject the application for flexible working they should ensure that the reason for not approving the request is due to valid grounds for rejecting a request as detailed at point 5.5
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8.0 **WORKING TIME REGULATIONS**

8.1 Under the Working Time Regulations workers should not work more than an average of 48 hours per week, averaged over a 17-week period. In certain circumstances e.g. emergency and resilience plans being instigated, this can be extended to an average over 26 or 52 weeks in consultation with the employee and with the approval of the Executive Director. The 48-hour average includes in addition to the normal working week any overtime, on-call time worked, sleep-ins etc.

8.2 The Working Time Regulations allow workers to voluntarily opt out of working within the average 48 hour limit. Any opt out is renewable on an annual basis but can be rescinded by the Manager where there is a conflict of interest in accordance with the Council's Code of Conduct Procedure. Employees are able to cancel the 'opt-out' agreement by giving one months' notice in writing to their Line Manager/ Headteacher.

8.3 Managers should refer to the Councils Working Time Regulations Policy to ensure that the flexible working request is compliant.

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9.0 **HEALTH AND SAFETY**

9.1 Managers/ Headteachers must ensure safe working systems are in place. This will include out-of-hours emergencies (e.g. fire procedures, loss of electrical power, and failure of lifts. Leak of gas or water or serious building defects), and safe working systems (e.g. working alone, building security, use of equipment, shut down procedure and prohibited operations). In particular, risk assessment must be carried out and safety systems devised where violence or aggression towards employees is a likely occurrence.

9.2 Working patterns under this scheme must not compromise employees' health and safety, or that of others. Particular consideration should be given in regard to lone working, availability of adequate supervision and management taking care, with regard to new, less experienced employees, trainees and young employees to ensure their working pattern does not put them at risk in terms of their health and safety (e.g. as a consequence of lack of experience, or absence of awareness of existing or potential risks).

9.3 Employees should have regard to their personal safety when travelling to and from work earlier or later than normal. The Health, Safety and Emergency Resilience Unit will provide advice on these issues and should be consulted where procedures do not exist to accommodate flexible working arrangements. Details can also be found on Health and Safety Intranet Site.

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10.0 **PART TIME EMPLOYEES**

10.1 Part time employees have contractual entitlements based on a pro rata comparison with a full time employee. All requests from part time employees should be considered on the same basis as full time employees.

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11.0 **EQUALITY AND DIVERSITY**

11.1 This policy has been impact assessed by Human Resources, if on reading this policy you feel there are any equality and diversity issues, please contact your HR Business Partner who will if necessary ensure the policy is reviewed.

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