

Bolsover District Council

UECC

9 October 2014

Flexible Working

Report of the Joint Assistant Director (Human Resources and Payroll)

This report is public

Purpose of the Report

- To ask UECC to consider and note the recent change in the legislation relating to Flexible working
- To ask UECC to consider a minor variation to the existing 'Work-Life Balance Quick Guide for Managers and Employees' to reflect the change in the legislation
- To ask UECC to consider whether to recommend adoption of a separate policy relating to the statutory aspects of flexible working
- To ask UECC to make appropriate recommendations in respect of the above.

1 Report Details

- 1.1 There has been legislation in place relating to the right for employees to request flexible working since April 2003. At that time the right was limited to parents of children under 5 (or 18, if disabled). This was extended to carers of certain adults in April 2007 and to parents of children under 17 in April 2009. The latest change to the legislation simply extends the right to request flexible working to all employees.
- 1.2 This legislation was primarily aimed at employers who did not already have family friendly policies, and there is considerable overlap between the provisions of the legislation and the work-life balance policies currently in place at the Council. In fact, the Council has for some years extended access to its work-life balance policies to all employees.
- 1.3 At BDC all policies and procedures relating to flexible working options are currently contained in two documents: 'Work-life Balance Flexible Working Options – Guidance for Managers and Employees', and 'Work-Life Balance Quick Guide for Managers and Employees'. The first of these makes no direct reference to the legislation and therefore it is not proposed to make any changes at this stage. The second does make specific reference to the legislation within Appendix 1 'Work-Life Balance – Questions and Answers' and attached at Appendix 1 shows the existing wording of the relevant section with the proposed new wording to reflect the changes.
- 1.4 As indicated at 1.3 above, all BDC policies and procedures relating to flexible working options are currently contained in two documents. It may be helpful for employees to

be aware which elements of the policies represent a statutory entitlement, and what the related conditions are, and therefore attached at Appendix 2 is a draft stand-alone policy on Flexible Working for consideration.

2 Conclusions and Reasons for Recommendation

- 2.1 The purpose of the report is to notify UECC of the changes to the Flexible Working legislation and seek agreement that the relevant wording in the Work-Life Balance Guidance document be amended to reflect the changes.
- 2.2 In order to avoid confusion or misunderstanding, it is proposed to adopt a separate Flexible Working Policy document which sets out the key provisions of the legislation so that employees can be kept fully informed of their statutory rights.

3 Consultation and Equality Impact

- 3.1 None arising from this report.

4 Alternative Options and Reasons for Rejection

- 4.1 N/A

5 Implications

5.1 Finance and Risk Implications

None arising directly from this report.

5.2 Legal Implications including Data Protection

None arising directly from this report.

5.3 Human Resources Implications

None other than those included within the report.

6 Recommendations

- 6.1 That UECC to consider and note the recent change in the legislation relating to Flexible working
- 6.2 That UECC consider a minor variation to the existing 'Work-Life Balance Quick Guide for Managers and Employees' to reflect the change in the legislation
- 6.3 That UECC consider whether to recommend adoption of a separate policy relating to the statutory aspects of flexible working
- 6.4 That UECC make appropriate recommendations in respect of the above.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	N/A
District Wards Affected	N/A
Links to Corporate Plan priorities or Policy Framework	<p>STRATEGIC ORGANISATIONAL DEVELOPMENT – Continually improving our organisation.</p> <p>No direct connection to specific targets</p> <p>It is widely acknowledged that people work most effectively when they are able to achieve the right balance between work and non-work responsibilities.</p>

8 Document Information

Appendix No	Title
1	Proposed amendment to 'Work-Life Balance Quick Guide for Managers & Employees' Appendix 1, 'Applying to Work Flexibly – Questions and Answers'
2	Draft Flexible Working Policy
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
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Extract from 'Work-Life Balance Quick Guide for Managers & Employees'
Appendix 1 'Applying to Work Flexibly – Questions and Answers

Existing paragraph:

Do I have the right to apply to work flexibly?

From April 2011 flexible working legislation gives all parents with children under the age of 18, and those with caring responsibilities for an adult, the right to apply to work flexibly. This does not provide an automatic right to flexible working but employers have a statutory duty to consider such requests seriously. The Council extends this right to all employees and will therefore consider requests for flexible working from any employee. All requests will be dealt with sensitively and where possible your needs will be met. However in balancing the needs of the service and organisation it is likely that not all requests will be able to be accommodated – if this is the case those with a statutory right will be given priority.

Proposed paragraph:

Do I have the right to apply to work flexibly?

Yes. From 30 June 2014 flexible working legislation has been extended to cover all employees. This does not provide an automatic right to flexible working, but employers have a statutory duty to consider such requests seriously. All requests will be dealt with sensitively and where possible your needs will be met. However, in balancing the needs of the service and organisation it is likely that not all requests will be able to be accommodated.

FLEXIBLE WORKING ARRANGEMENTS - STATUTORY

This document outlines the new statutory provisions in respect of flexible working. These should be considered in conjunction with the Council's other work-life balance policies. The statutory rights to request flexible working are now available to all employees.

1 Eligibility for Flexible Working

This is a statutory right which exists in addition to policies specific to BDC.

An employee must meet the following criteria to be eligible to make a request under this right:

- Be an employee of BDC and not be an agency worker
- Have a minimum of 26 weeks' continuous Local Government service at the date the application is made
- Not have made another application to work flexibly under the right during the past 12 months

2 Under what circumstances can an application be made?

An application can be made in a variety of circumstances, for example, it may enable the employee to spend more time with their family, or simply to achieve a better work/life balance. (See also the Council's Work-Life Balance Flexible Working options)

3 When should the application be made?

Employees should consider when they would like the new working pattern to begin. The process can take up to 14 weeks to complete, and sometimes longer where a problem arises.

Employees who wish to return from maternity leave on changed hours may wish to mention this as early as possible, but no later than 28 days prior to their intended return to work date, to enable the request to be properly considered in time for arrangements to be put in place on the employee's return.

4 How often can an application be made?

No more than one application a year can be made under the right. Each year runs from the date when the application was made.

5 What kind of changes can be applied for?

There is scope to apply for a wide variety of different types of working pattern. Eligible employees can request to:

- Change the hours they work;
- Change the times when they are required to work; or
- Work from home (whether for all or part of the week).

A request may be as simple as asking to start half an hour later than usual to allow the employee to drop their child off at school. Or it may be a bigger change to their hours in order to fit their work around childcare requirements.

An application for flexible working can be for any working pattern other than the normal working pattern in an organisation. However all applications will be subject to service requirements (see below).

6 What information should an application contain?

The written application must state the date when the employee would like the new working pattern to start. The proposed date should allow time for the application to be considered and implemented. They must also state if and when any previous application was made.

The employee must also indicate how the proposed working pattern can be made to work, and how the impact on the service/organisation can be minimised.

7 Can an employee go back to their previous hours if their circumstances change?

Any request that is made and accepted under the statutory right will be a permanent change to the employee's contractual terms and conditions (unless otherwise agreed). The employee has no automatic right to revert back to the previous working pattern. However if the employee is only looking for an informal change for a short period, for instance to cope with a bereavement or to pursue a short course of study, consideration will be given to permitting a return to the employee's original terms and conditions after a specified period.

8 What happens after the application is submitted?

- The Service Manager, in consultation with a representative from Human Resources, must hold a meeting to consider the request within 28 days after the date the application is received. This meeting will provide an opportunity for both parties to discuss the desired work pattern in depth and consider how it might be accommodated. Both the Service Manager and employee should be prepared to be flexible. If the original

suggestion for an alternative working pattern cannot be accommodated, the meeting also provides an opportunity to see if an alternative working arrangement may be appropriate. It may also be in the interests of both parties to agree that the new working pattern will take place on a trial period in order to see how it would work.

- The employee can be accompanied by a companion, ie a Trade Union representative or colleague, at the meeting.
- If the companion is unable to attend the meeting, the employee should rearrange the meeting for a date within seven days of the originally proposed time, ensuring the new time is convenient to all parties – or they might wish to consider an alternative companion.
- The Service Manager, in consultation with the Human Resources representative, must write to the employee informing them of the decision within 14 days of the meeting. If the request is accepted, the notification should include a description of the new working pattern and indicate the date it will commence. If the request is rejected, the notification must state the business grounds for refusing the application, with sufficient explanation. It should also provide details of the employee's right to appeal.

9 What are the grounds for refusing a request for flexible working?

A request under this statutory right can only be refused on business grounds, as follows:

- 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
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes.

10 What is the procedure for appealing against a decision?

- An employee must make their appeal in writing within 14 days of the date they receive written notice that their request has been rejected. The appeal should set out the grounds for making the appeal.
- The appeal will be heard by the Assistant Director.
- An appeal meeting will be arranged to take place within 14 days of receiving notice of the appeal.
- The employee can be accompanied.

- The employee will be informed of the outcome of the appeal in writing within 5 days of the date of the meeting.
- If the appeal is upheld, the written decision must include a description of the new working pattern and indicate the start date.

11 Extension of time limits

There are two circumstances where the time limits can be extended:

- Through agreement between both parties
- Through the absence of the employer. In this case the period that the employer has to arrange the meeting will commence either on the day of the manager's return or 28 days after the application is made, whichever is sooner.

There are no other circumstances where an automatic extension to any period applies.