

# Flexible Working Policy

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## Statement of intent

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1. The City of London Corporation strives to provide excellent service delivery by ensuring the most effective use of its resources and we are committed to maximising the opportunities offered by the modern working environment and advances in technology. This policy supports our vision of being an employer of choice and attracting and retaining employees. We are committed to considering requests to work flexibly in a positive way.

## Scope

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2. This policy and the processes, guidance appended to it apply to all employees of the City Corporation and support staff in City of London Police, with the exception that an amended version applies to teaching staff in the City Corporation's schools.
3. This policy does not apply to ad hoc, occasional informal flexible working arrangements or temporary arrangements which have been agreed between the employee and line manager i.e., a phased return after a period of sickness absence.

## Purpose

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4. The purpose of this policy is to:
  - comply with the Employment Rights Act 1996 (as amended) and regulations made under it.
  - ensure that all requests for flexible working are dealt with in accordance with legislative requirements.
  - ensure that a consistent approach is taken across the organisation.

## Aims

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5. This policy is designed to comply with the 'ACAS Code of Practice on requests for flexible working' and to provide clarity for employees and managers about the right to request flexible working, the process by which it is considered and the right to appeal.

## Rights and responsibilities

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### Employees

6. Employees:
  - can make a statutory application to request flexible working, from the start of their employment.

- can make two statutory applications in any 12-month period, any agreement to a change in working pattern will be a permanent or temporary contractual change to terms and conditions.
- can only have one live request for flexible working at a 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  - the request is withdrawn.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 the statutory two-month decision period for deciding requests, which commences from the date the request was received to notification of any appeal decision, unless the employer and employee have mutually agreed an extension. In certain circumstances the manager can treat the application as withdrawn, see 'Treating the application as withdrawn' below).

- can have a companion with them if they wish when meeting the manager to discuss their request i.e., a trade union representative or a co-worker.
- will be informed of the decision in writing.
- can appeal against a decision to refuse a request whether in part or in full, to their line manager's manager.

#### 7. Employees should:

- provide a carefully thought-out application providing all of the information that is necessary i.e., days/hours/times worked, locations etc. and when they would like the change to come into effect.
- provide details if and when they have made a previous application for flexible working to the employer.
- ensure the application is made well in advance of when they want the change to come into effect, noting that all requests will be dealt with within the statutory two-month decision period, from receipt of the request to notification of any appeal decision unless an extension is mutually agreed.
- confirm the name of their companion in advance when meeting the manager to discuss the request i.e., a trade union representative or a co-worker.
- confirm attendance at any meetings related to their request or notify in advance why they cannot.
- utilise the consultation meeting with their manager to be as open as possible about their needs, so that the manager can engage in a constructive discussion about what is feasible.
- be aware that they are requesting a change in terms and conditions, this could be a permanent or a temporary contractual variation; and a trial period may be proposed to provide the opportunity to assess the feasibility by both parties of any arrangement before a final decision is made.

## Managers

8. Managers when handling flexible working requests will:

- consider requests reasonably i.e., potential benefits and impact.
- process requests in a timely manner, noting that a request continues to be live during the 'statutory two-month decision period' for deciding requests, which commences from the date the request was received to notification of any appeal decision; unless the employer and employee have mutually agreed an extension.
- hold a consultation meeting to discuss the request with the employee.
- provide the employee with appropriate support and information throughout the process.
- consult HR when considering requests to work flexibly.
- only decline a request where there is a genuine business reason and explain to the employee in writing why it applies having liaised with HR (see Decision section below).
- consider if a modified or an alternative arrangement can be agreed after consulting with the employee, rather than rejecting a request.
- ensure adherence to the time limits contained within this policy.
- offer an appeal process if the request or part of the request is rejected.
- ensure that any variation with the procedure is agreed in advance with the employee provided that it does not infringe on the legislation (refer to Acas Code of Practice on requests for flexible working).
- ensure care is taken not to discriminate against employees because of any protected characteristic under the Equality Act 2010 at any stage of the process.
- ensure reasonable adjustments to remove any disadvantage related to a person's disability under the Equality Act 2010 are in place.
- be responsible, to ensure that details regarding the provision of equipment are documented in departments where equipment has been provided to facilitate flexible working.

## Human Resources

9. Human Resources:

- are responsible for provision of advice and guidance on the application and monitoring of this policy, to ensure consistency of approach.
- will be consulted by managers considering requests to work flexibly that require a change to terms and conditions of employment.

- are responsible for processing any changes to terms and conditions as a result of the flexible working application and maintaining records on personal files. This should be done as soon as possible but usually no later than 8 working days after from receipt of the managers decision to approve the request.

## **Applying for flexible working**

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### **Application**

10. To apply for flexible working an employee should make a request using the application form at Appendix 1.
11. Employees can make 2 applications for flexible working in any 12-month period. Once the flexible working request application is submitted, it will be dealt with as soon as possible, and not later than two-months, from receipt of the request to notification of any appeal decision; where this is not possible the timescales within this policy may be extended if this is mutually agreed.
12. An employee must wait for the outcome of one flexible working request, including any appeal before submitted another application.
13. The manager will hold a consultation meeting with the employee to discuss their request unless they are happy to agree the request in full without the need for a meeting, or the employee has decided to withdraw their application.
14. Each flexible working request will be considered on a case-by-case basis, where one request has been agreed for an employee, it will not set a precedent or create the right for another employee to be granted a similar change to their working patterns.
15. If an employee fails to attend, without good reason, both the first and a second rearranged meeting to discuss their application, or both the first and a second rearranged meeting to discuss their appeal, their application will be treated as withdrawn. If a manager does consider the request withdrawn, they must inform the employee of this in writing.

### **Consulting an employee**

16. A consultation meeting should be held without unreasonable delay, usually within 7 days of receiving the application. The employee and manager should have reasonable time to prepare for the discussion, while taking into account a statutory two-month period for deciding requests including any appeal.

17. The manager's arrangements for the meeting should provide a reasonable opportunity for the employee to attend. However, if an employee fails to attend without good reason, for both the first and a second rearranged meeting to discuss their application, they risk their application being treated as withdrawn.
18. The manager should inform the employee prior to the consultation meeting that a companion can accompany them to the meeting to discuss their flexible working request i.e., a trade union representative or a co-worker.
19. The consultation meeting is an opportunity for the employee to explain how the proposed working arrangements would benefit them and for the manager to consider and discuss any alternative flexible working options that may be available and suitable for the employee and the organisation. It is also an opportunity to discuss any reasonable adjustments related to an employee's disability.
20. The manager should ensure a written record of the consultation meeting and any follow-up meetings required are kept which provides an accurate reflection of the discussion that has taken place, and that this is shared with the employee.

## Decision

21. After the consultation meeting, the manager will consider the request taking into account this policy and the associated ACAS Code of Practice on requests for flexible working. The manager will weigh up, the potential benefits to both the employee and the organisation, and any adverse impact of implementing the changes.
22. The manager will reach a decision on the request and use the relevant template from 'Management Response – Flexible Working Request' (Appendix 2), without unreasonable delay, usually within 7 days.
23. Noting that, all requests, including any appeals, must be decided, and communicated to the employee within the statutory two-months decision period for deciding requests. This period commences from the date the request was received to notification of any appeal decision. The time limit may be extended by mutual agreement with the employee, for example if a trial period is agreed.
24. **Where the request is granted.** The flexible working arrangement may be granted in full or in part. For example:
  - a modified version of the original request;
  - on a temporary basis; or
  - on a trial period.
25. Where the request is granted, the manager should meet the employee to discuss how and when the changes might be implemented.

26. **Where a trial period is agreed.** A trial period provides the opportunity to assess the feasibility by both parties of any arrangement before a final decision is made. The statutory two-months decision period for dealing with a flexible working request does not pause for a trial period, therefore it is probable that an agreement needs to be reached with the employee for the two-month statutory decision period to be extended for sufficiently long enough to cover the trial period and any appeal decision, should the trial be unsuccessful.
27. **Where the request is rejected.** While we are committed to encouraging flexible working patterns, however even after careful consideration of alternative options, in some cases there will be genuine business reasons set out in the Employment Rights Act 1996 why it may not be possible to agree the request because of:
- the burden of additional costs
  - an inability to reorganise work amongst existing staff
  - an inability to recruit additional staff
  - a detrimental impact on quality
  - a 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 your business.
28. The manager will also include any additional information that is reasonable to help to explain their decision when not agreeing (in part or in full) to flexible working requests.
29. **Written confirmation of the decision.** The manager will ensure copies of the application, and their decision provided to the employee (Appendix 2) are sent to People and HR / HR contact, including:
- the start date of the new arrangement
  - any review dates on how the arrangements are working,
  - if the arrangements are temporary the end date.
  - the right of appeal against the decision where a flexible working request is rejected or only agreed in part (see Appealing a flexible working decision below).
30. People and HR / HR contact will confirm in writing any changes to the employee's terms and conditions of employment (i.e., a permanent or temporary contractual variation, or a trial period before a final decision can be made), as an amendment to their contract of employment usually no later than 8 working days of receipt of the managers decision.

## **Appealing a flexible working decision**

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31. If the employee wishes to appeal the decision to reject or only agree the flexible working request in part, they should do so within 5 days of being notified of the decision by submitting an appeal statement setting out the grounds on which they are appealing to their line manager's manager (as long as they have not been involved in the process) for consideration, along with the original application and management response. Grounds of appeal may for example include: the decision itself, the business reason the manager has relied on, new information they wish to be considered, or they believe the request has not been handled in a reasonable manner.
32. An appeal meeting will be held without unreasonable delay while taking into account the statutory two-month decision period for deciding requests, which commences from the date the request was received to notification of any appeal decision unless the employer and employee have mutually agreed an extension.
33. The Appeal Manager, who will be accompanied by an HR representative, will arrange to meet with the employee who may if they wish to be accompanied by their trade union representative or a co-worker. The Appeal Manager may also require the attendance of the line manager who made the original decision to outline the reason for their decision.
34. The Appeal Manager will notify the employee of the decision usually within 5 - 7 working days of meeting with the employee and within two-months of the original application being made (unless there has been agreement to extend the timeline by mutual consent). The outcome of the appeal is final.
35. Alternatively, the employee may request that the appeal is a review of the paperwork only, without the attendance of either party at a meeting.
36. A written record of the appeal meeting should be kept which provides an accurate reflection of the discussion that has taken place.
37. If despite the employer making reasonable arrangements to hold the appeal meeting, the employee fails to attend without good reason, both the first and a second rearranged meeting to discuss their appeal, the Appeal Manager can treat their appeal as withdrawn and write to the employee accordingly.

## **List of appendices**

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- Appendix 1 Application for Flexible Working
- Appendix 2 Management Response – Flexible Working Request
- Appendix 3 FAQs



## Links / Other resources

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Colnet:

- Health & Safety - Display Screen Equipment
- Health & Safety - Home / Remote Working Safely Guidance
- Workplace Attendance Policy
- HR Topics Guide, Reasonable Adjustments Passport

External website:

- ACAS, Code of Practice on requests for flexible working
- The government's 'Access to Work' service can help an employee to stay in work who have a physical or mental health condition or disability. The support given depend on an individual's needs. The employee makes the application: [Access to Work: get support if you have a disability or health condition: Apply for an Access to Work grant - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/access-to-work-get-support-if-you-have-a-disability-or-health-condition-apply-for-an-access-to-work-grant)