

## **Flexible Working Policy**

### **1. Introduction**

This Policy is part of the Working Time and Leave Framework which is made up of a number of elements which together encompass all formal policy, procedure and statement documents, including associated forms, relating to working time and leave in Abertay University.

For the avoidance of confusion, this policy does not refer to the Flexi-Time Scheme. There is a separate Flexi-Time policy available on request.

If you would like this document in a different format (e.g. large print, braille) or need any assistance to access or understand the policy/procedure please contact your School/Service designated HR Partner.

### **2. Purpose and Scope**

This policy applies to all employees.

All employees have the legal right to make a request for flexible working arrangements, and to have that request considered seriously by the University.

The University acknowledges the importance for employees of achieving a balance between the work and family commitments and allows employees to work flexible hours in most departments and positions. The University will endeavour to grant requests where possible.

The University will place restrictions on the operation of flexible working, however, if it deems it necessary for the proper conduct of its business and in accordance with the permitted statutory grounds for refusal. The University reserves the right not to agree to the request where one or more of these criteria indicate that, in the current circumstances, the job under consideration cannot be carried out effectively on the requested basis.

This policy does not normally apply to agency workers, contractors or consultants. However, it will apply to agency workers if they are returning from a period of parental leave.

### **3. Eligibility**

In order to be eligible to request flexible working you must:

- have at least 26 weeks' continuous employment with the University at the date the application is made
- not have made an application to the University under the statutory provision, within the previous 12 months, beginning with the date on which the previous application was made.

## **4. Making a Request**

### **4.1. Contents of your Request**

Flexible working can incorporate a number of changes to working arrangements; you may therefore request a variation of your employment contract in respect of, for example:

- the number of hours you are required to work
- the times when you are required to work
- part-time working
- job-sharing
- working term-time only
- working shifts
- where you are required to work (as between your home and places of business of the University).

You have the right to have the request considered seriously, in accordance with the statutory procedure, but this does not give you a right to a contract variation.

Any agreed change to your terms and conditions will be permanent, unless the University agrees otherwise.

### **4.2. Procedure**

Before making an application you should think about:

- what working pattern will help you achieve your work/life balance;
- the financial implications a change might have on you;
- what effects, if any, the change will have on the University's business and how these might be accommodated.

Your application must be submitted to your manager and copied to HR and must:

- be made in writing;
- state that it is an application under this policy;
- state whether a previous application has been made by you to the University and, if so, when;
- specify the change requested and the date on which it is proposed that the change should become effective;
- explain what effect, if any, you think making the change applied for would have on the University and how, in your opinion, any such effect might be dealt with;

Managers should discuss flexible working requests with HR before reaching a final decision.

There is a statutory requirement for the University to consider your application and respond to you within 3 months, including any appeal process.

Your manager will arrange to meet with you to discuss your request, normally within two weeks. You may, if you wish, be accompanied at that meeting (see 4.8 Right to be

accompanied). At that meeting, alternative flexible working options may be discussed, in addition to the specific change requested.

#### **4.3. Withdrawal of Applications**

The University can treat an application as withdrawn under the statutory provisions where you have:

- notified your manager, orally or in writing, that the application is withdrawn
- without reasonable cause, failed more than once to attend a meeting or appeal meeting
- without reasonable cause, refused to provide your manager with information required in order to assess whether to agree to the contract variation.

Your manager will confirm the withdrawal of the application to you in writing unless you have already provided written notice of the withdrawal.

If you withdraw a formal request for flexible working, you will not be eligible to make another formal request for 12 months from the date of your original request.

#### **4.4. Agreement**

Where the University agrees to the application, or agreement is reached on alternative flexible working arrangements, the manager will confirm the decision and liaise with HR. HR will issue you with a contract variation specifying the agreed changes and the date on which the variation is to take effect.

The contract variation will be permanent, unless your manager agrees otherwise. You may make further applications for variations (whether your first application was successful or not) provided they are made at least 12 months after the previous application.

#### **4.5. Refusal**

If your request is refused, your line manager will give reasons for the refusal. Those reasons must be for one or more prescribed business reasons, which are:

- a burden of additional cost
- a detrimental effect on ability to meet customer demand
- an inability to: re-organise work among existing staff; or recruit additional staff
- a detrimental effect on quality
- a detrimental effect on performance
- an insufficiency of work during the periods you propose to work
- a planned structural change to the business.

In deciding whether the above grounds are met, the manager will discuss the request with HR and a wide range of relevant matters will be taken into account, including (by way of example only) the following:

- the University's business needs
- the suitability of the job for the flexible arrangements proposed, eg the nature of the work, the hours needed and the need for continuity and constancy

- the current balance of full-time, part-time and other flexibly working employees within the department or team
- the feasibility of covering the remaining hours
- the nature of the vacancy, should you leave.

#### **4.6. Trial Period**

The employee making the request and/or the line manager may propose a trial period of the proposed flexible working arrangements. A trial period should be of sufficient duration to allow both the manager and the employee an opportunity to review how the arrangements work in practice for the employee, for the employee's school/service and/or for the University as a whole. The trial period will normally be for between one and 12 months.

Before embarking on a trial period, the manager should liaise with HR to arrange the necessary contract change and written agreement to extending the statutory time limit for reaching a final decision under the Flexible Working Policy.

The agreement to extend the time limit must:

- specify to which period the extension relates;
- specify the date on which the extension is to end, which should be one month after the end of the trial period; and
- be dated and signed by both parties.

The contract variation will state the start and review date of the trial period and the changes that have been agreed. For longer trial periods, it will also state the basis for early termination of the trial. At the end of the agreed trial period, the employee will revert to his or her previous working arrangement unless otherwise agreed by both parties. If, after the review, the employee wishes to continue but the University does not agree, then the employee retains the right to appeal.

#### **4.7. Appeal**

An employee, who wishes to appeal against the outcome, should appeal in writing to the Director of Human Resources and Organisational Development within 5 working days of receipt of the written notification of the decision. The employee's appeal will be heard by the next level of management and a HR Partner. The employee is entitled to be accompanied to an Appeal Hearing (see 'Right to be accompanied' below).

An appeal would be held as soon as is practical to do so. The appeal decision will be provided in writing; the decision made on appeal shall be final.

#### **4.8. Right to be accompanied**

An employee has the right to be accompanied by a recognised trades union representative, Abertay staff representative or current work colleague employed by the University at all stages of the formal procedure, including an appeal. For the avoidance of doubt, legal representation or representation by anyone outside of this group is not permitted. The University may permit the employee to bring a companion who is not a work colleague or recognised trades union representative (for example a family member or interpreter) if this will help overcome the effect of any disability or if the employee has difficulty in understanding English, but this does not extend to a legal representative.

Any formal meetings with the employee regarding the case will be rescheduled if the chosen companion cannot attend; providing the employee proposes an alternative date and time within 5 working days of the original date.

The companion is permitted to confer with the employee and make representations or ask questions, but not to answer questions that are directly put to the employee. They must also not interfere with, or prevent people from contributing to, the discussion.

If the employee’s choice of companion is unreasonable they may be asked to choose someone else, for example if in the opinion of the management representative and HR Partner the companion may have a conflict of interest, or prejudice the meeting, or be unavailable at the time the meeting is scheduled and for more than five working days after that date.

**4.9. Confidentiality, Documentation & Data Protection**

The University aims to deal with Flexible Working requests sensitively and with due respect for all individuals involved. All documentation relating to the discussion and outcome will be retained within Human Resources and will be held and processed in accordance with the Data Protection Act 1998. Employees (including representatives) must not make electronic recordings of any meetings or hearings conducted under this procedure.

All employees must treat as confidential any information communicated to them in connection with a flexible working request. Any breach of confidentiality may result in disciplinary action.

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