

Flexible Working Policy

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1. Aim

- 1.1 This policy details all of the Council's arrangements for flexible working. It sets out the process for application and complies with the Government's statutory application process and the ACAS Code of Practice on handling flexible working requests.
- 1.2 The policy recognises the many benefits flexible working. An improved work/life balance has a positive impact on employees' health and wellbeing and can also support effective workplace adjustments. In turn, these support the Council by improving employee engagement, recruitment, retention and performance.
- 1.3 This policy will help the delivery of our LET'S Do IT! Strategy for Bury 2030 by building a modern organisational culture in line with the LET'S values and behaviours.

2. Definition

- 2.1 Flexible Working is a broad term used to describe any working arrangement that meets the needs of both the employee and the Council regarding when where and how an employee works.
- 2.2 The Council's arrangements within this policy include:
 - Voluntary Reduced Hours
 - Job Sharing
 - Voluntary Term Time Working
 - Annualised Hours
 - Compressed Hours
 - Career Breaks
 - Purchasing Additional Leave
- 2.3 The Council also has separate Flexitime and Agile Working policies.
- 2.4 All Flexible Working arrangements will balance the individual's needs with the needs of the service.

3. Scope

- 3.1 This policy applies to all staff employed directly by the Council, excluding those working in maintained schools.
- 3.2 Within some services, Council staff will be working alongside staff from other organisations. Staff external to the Council will need to refer to their own organisational policies or appropriate joint protocols regarding flexible working.

3.3 It is recommended that schools adopt this policy where appropriate.

4. Principles

- 4.1 All employees have a statutory right to request to work flexibly under the Employment Rights Act 1996 (as amended) and regulations made under it.
- 4.2 The right applies from the first day of employment (except for Career Breaks where 2 years' service is required).
- 4.2 This Policy will positively impact on the Council's Diversity and Inclusion agenda ensuring employees are treated fairly in their applications and not discriminated against based upon a protected characteristic.

If an employee seeks a workplace adjustment for their disability through a flexible working request, then the Council should consider it in line with the Equality Act 2010 which requires employers to make reasonable adjustments to remove any disadvantage linked to a person's disability.

5. Approach

- 5.1 All applications for flexible working will be made following the process outlined below and a decision will be made within 1 month of the manager receiving the request in order to allow for any appeal to be heard within 2 months of receiving the application.
- 5.2 Employees are normally only able to make two flexible working requests in any 12-month period (in addition to purchased leave). However, an employee may have only one live request for flexible working at any one time.
- 5.3 Applications must be considered fairly, reasonably and with an open mind. This should include carefully assessing the effect of the requested change for both the Council and the employee, such as the potential benefits or other impacts of accepting or rejecting it.
- 5.4 Individuals and their managers will work together to ensure that agreeable compromises are reached so that any working time issues are managed quickly and effectively.
- 5.5 No request will be rejected without the manager having discussed the request and explored other alternative options with the employee.
- 5.6 The wider perspective of the team/service will be considered when making and considering applications.

- 5.7 Employees can apply for permanent flexible working within their current role or for a temporary period. It may also be appropriate to 'trial' requested ways of working.
- 5.8 Each request and arrangement will be treated on an individual basis. No one decision will set a precedent for any other.
- 5.9 If an application is rejected the employee can appeal. Appeals will follow the process below.
- 5.10 LGPS 2014 Regulations state that no pension contributions for any period of unpaid absence are payable. Therefore, if flexible working options result in unpaid periods of absence pension benefits will be reduced. Active members of the Scheme can recoup lost benefits by paying Additional Pension Contributions (APCs) by completing Greater Manchester Pension Fund Form P38(1). This form is available from the Pensions Team.

If the form is returned within 30 days of the last day of absence, the Council will contribute 2/3rds of the cost; otherwise the full cost of buying the lost pension is payable by the employee.

The Pensions Team can advise how much pension has been lost as a result of the break. There is an online calculator to work out an approximate cost at www.gmpf.org.uk

For further information contact the Pensions Team at pensions@bury.gov.uk

6. Application and appeal processes

6.1 Application process

All employees irrespective of length of service, may apply for flexible working. **Applications** should be submitted as early as possible before the requested start date to allow time for consideration, approval and any related action to be taken.

- 6.1.1 Applications for career breaks and to purchase additional leave should be made through iTrent self-service – guidance on the application process can be found here [iTrent user information - Bury Council Intranet](#)
- 6.1.2 Applications for all other types of flexible working should be made by completing the Application for Flexible Working and submitting it to your Manager.
- 6.1.3 Requests for Flexible Working must be responded to within two months of the manager receiving the request. **This timeframe includes any appeal.**

Managers must therefore discuss the request with the employee as soon as possible including discussing alternative options if appropriate. The employee should have reasonable time to prepare for the discussion and can be accompanied by their trade union representative or a work colleague, if they wish. The meeting should be held privately and notes should be kept.

- 6.1.4 The Manager will inform the employee in writing either confirming agreement to the request and the agreed start date, or to provide a clear business reason, including a detailed account of the service implications, as to why the request cannot be approved. The decision must be made within one month of receiving the application to allow time for any appeal.
- 6.1.5 The Manager may give an interim response where there is a need to take future action before a final decision can be made (for example, if a job share arrangement is requested, the feasibility of recruiting a job share partner will need to be considered and that post recruited to before the change can be made).
- 6.1.6 The manager may discuss and agree with the employee to approve the request on a temporary basis/trial with a review at the end to consider if the arrangement can be permanent.
- 6.1.7 Managers must send a contractual amendment form to HR Operations to ensure that any amendments are made and that appropriate changes are made to the employee's contract/pay.
- 6.1.8 Managers should only refuse an application to work flexibly if there is a clear business reason for doing so – the following business reasons are set out in the legislation: -
- 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
 - a 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

Where the application for flexible working is a request for a workplace adjustment, the provisions of the Equality Act 2010 should also be taken into account.

6.2 **Appeal process**

Employees will be given the right to appeal the decision. An **Appeal** must be lodged in writing within 10 working days of being informed of the decision and sent it to the Head of Human Resources. An appeal meeting must be held

within 14 days of receipt of a written appeal. All appeals must be heard within 2 months of the application being received unless there are exceptional circumstances, and an extended timeframe has been agreed by all parties. Employees can be accompanied at appeal stage by their trade union representative or work colleague. This is the final stage of the process and appeal decisions are full and final.

6.2.1 Appeals will be heard jointly by representatives of the Head of Human Resources and the Executive Director of the department. Also present at the meeting will be the employee, their representative (if appropriate) and the manager who made the decision/refused the application.

6.2.2 The appeal will follow the following process:

- The Chair of the meeting will make the introductions and outline the process
- The employee (or their representative) will present the appeal
- The panel and manager will ask questions
- The manager will give the reason for the decision or for refusing the application
- The employee (or their representative) and the panel will ask questions
- There will be a general discussion to clear up any misunderstandings
- The employee will summarise their case
- The manager will summarise their case
- The meeting will adjourn for consideration of the decision

A written record should be kept of the meeting.

6.2.3 The decision will be sent to the employee in writing within 5 days of the meeting, however, if possible, the decision will be given on the day.

7. Flexible working options

7.1 Voluntary Reduced Hours

7.1.1 Voluntary Reduced Hours allows employees to voluntarily reduce their contractual hours to enable them to have more time for personal, caring or family commitments.

7.1.2 Hours can be reduced on a permanent or temporary basis depending on individual circumstances:

- Permanent reduction in hours involves a permanent amendment to an employee's contract of employment and means that they have no right to revert back to full time working without this being requested and agreed.
- Temporary reduction in hours gives employees the security of reverting to their normal working hours at the end of an agreed

period and also allows a trial period for managers to ensure the service is not detrimentally affected by the change.

7.1.3 In effect, employees who reduce their hours will be classed as part time and any terms and conditions of service entitlements and payments will apply on a pro rata basis to the hours worked. Pension will also be affected and employees can take advice on this from pensions@bury.gov.uk.

7.1.4 An employee who voluntarily reduces their hours then applies for another post within the Council with different working hours does so on the basis that they are applying for a role with the hours as stated in the advertisement. There is no guarantee that it will be possible to continue with current arrangements in the role applied for.

7.2 Job Share

7.2.1 Job Sharing involves the voluntary sharing of a post with two (or more) employees. The job sharers share the responsibilities/duties of a post and the salary on a pro-rata basis to the hours worked.

7.2.2 If a job share employee resigns, their job share partner will be given the opportunity to assume the post on a full-time basis. Where there are more than two post holders, the vacant hours could be split between the remaining partners if they were in agreement.

7.2.3 A job share employee will be classed as part time and any terms and conditions of service entitlements and payments will apply on a pro rata basis to the hours worked. Pension will also be affected and advice from pensions@bury.gov.uk should be sought.

7.2.4 Job sharers will be entitled to a proportion of all the public holidays. Bank holidays are automatically added to your annual leave entitlement based on your working pattern. If you are scheduled to work on the day the bank holiday falls this will be deducted from your entitlement. If you are not scheduled to work on the day, you will get the 7.4 hours (pro rata for part time) added to your leave to take at another time.

7.3 Voluntary Term Time

7.3.1 Term-time working relates to school term times, which can vary depending upon different local authority areas. Employees work during school term times and take unpaid leave during school holidays, whilst remaining on a permanent contract of employment. Voluntary term-time working should not be confused with term-time only posts (e.g. school based, when the employee's service is not required in the school holidays).

7.3.2 A voluntary term time employee will effectively reduce their hours (in terms of weeks worked) and any terms and conditions of service

entitlements and payments will apply on a pro rata basis to the hours worked. Pension will also be affected and advice from pensions@bury.gov.uk should be sought.

- 7.3.3 Salary is paid throughout the year and payment for annual leave is included in the salary calculation. HR Operations can advise on the actual salary calculation which will depend on hours of work, weeks worked and holiday entitlement.
- 7.3.4 Annual leave must be taken during school holidays. The assumption is that annual leave will be taken in the first periods of school closure from 1st April until leave entitlement is exhausted. Annual leave requests will not be granted during term-time, therefore, there is no need to approve and record leave.
- 7.3.5 An employee who works voluntary term time then applies for another post within the Council working all year round does so on the basis that they are applying for a role as stated in the advertisement. There is no guarantee that it will be possible to continue with current arrangements in the role applied for.

7.4 Annualised Hours

- 7.4.1 Annualised hours contracts are when employees work a set number of hours over 12 months. Instead of employees working a standard number of hours per week, they are contracted to work a total number of hours per year.
- 7.4.2 Annual hours can be requested by employees or may be implemented service wide (following consultation with the trade unions under existing arrangements). Working hours should match the needs of the service, enabling a more efficient scheduling and management of work which is subject to seasonal variations or predictable 'peaks and troughs'. It is not suitable for unpredictable workloads and can cause difficulties with job sharing due to the nature of how hours are worked.
- 7.4.3 Annual hours can significantly reduce overtime and provide employees with a stable income as salary is paid in equal payments. The concept of annual hours may be implemented in 2 ways: -
 - The total number of hours per year are allocated to an individual employee or group of employees on a rota system.
 - A small number of hours could be held in reserve. These reserved hours can be used for training purposes or to cover for sickness, holidays or any unexpected increases in workload. Managers requesting an employee works at short notice should take into account their personal circumstances; for example, they may need to make child care arrangements.
- 7.4.4 Employees are paid for the total annual hours per year, including annual leave and bank holidays. Salary will be paid in equal

instalments. Employees must provide managers reasonable advance notice in respect of their availability to work.

- 7.4.5 Employees commencing an annual hours contract part way through the annual leave year will receive a pro-rata entitlement to annual leave/bank holidays based on the number of complete months left in that year, converted to hours.
- 7.4.6 Service specific arrangements will be in place where annual hours is already in place.
- 7.4.7 Managers are responsible for monitoring working hours throughout the year to ensure that employees are on target to work them all. Employees must make themselves available for work whenever reasonable to ensure that they meet their contractual hours.

7.5 **Compressed Hours**

- 7.5.1 Compressed hours allow employees to work their contractual hours over fewer days per week/fortnight/month.
- 7.5.2 All terms and conditions, apart from the working pattern, remain the same.
- 7.5.3 When applying for or approving an application for compressed hours, consideration should be given to any work needed to be carried out on a certain day and the covering of the service during the non-working period.

7.6 **Career Break**

- 7.6.1 A career break is a period of unpaid leave, which can be applied for after a qualifying period of 2 years' service with the Council. Employees returning to work following a career break must normally complete a further 2 years' service with the Council before being able to apply for another career break. A maximum of 2 career breaks per person will be considered.
- 7.6.2 Career breaks will only normally be agreed where the employee is intending to return to work following the break.
- 7.6.3 An employee will not be permitted to commence a career break whilst subject to or involved with any outstanding disciplinary action or investigation. Any live disciplinary warnings will be suspended at the start of the career break and will continue on the employees' return to work.
- 7.6.4 Applications should normally allow for a minimum of 3 months' notice of commencement and termination by either party. It will not normally be

possible to extend or cut short a career break as this may impact on other contracts of employment for employees providing cover.

- 7.6.5 Employees who decide that they do not wish to continue their employment with the Council whilst taking a career break should inform their manager as soon as possible, in accordance with the normal periods of notice as specified in their individual contract of employment.
- 7.6.6 The minimum period for a career break will be 3 months; the maximum period will be 1 year. Following an agreed return to work date, the employee will return to their post on the same grade, with no loss of incremental point and length of service. If an employee is not able to return to their post, for example due to a restructuring exercise, the Council will seek to identify a suitable position, which will enable them to return on their previous grade.
- 7.6.7 Career breaks cannot be used as a means of prolonging employment in order to be able to access enhanced benefits such as pensions as this would be unlawful. Employees wishing to retire early should apply to do so and not use a career break for that purpose.
- 7.6.8 Employees should not undertake paid employment elsewhere during their normal working hours whilst on a career break. Any instances will be investigated and may result in disciplinary action being taken.
- 7.6.9 Applications will be considered on an individual basis in line with service requirements and decisions will be made at the discretion of the relevant Chief Officer.
- 7.6.10 Employees will be required to sign an agreement suspending all terms and conditions of their contract of employment during their career break from the Council, with the exception of continuity of service. Their contract of employment will remain suspended for the duration of the period of absence.
- 7.6.11 There will be no salary payment or payments of allowances, contractual or otherwise, during the period of the career break. At the end of the career break employees will return to work with no loss of incremental progression.
- 7.6.12 There are pension implications related to career breaks – see 5.10 above.
- 7.6.13 Employees should contact Payroll for advice regarding National Insurance contributions.
- 7.6.14 There will be no entitlement to sick leave/pay during the period of the career break. Following the career break, the career break period will count for sickness entitlements; however, SSP may be affected depending on the length of the career break. Employees who become

pregnant whilst on a career break should inform their Department and Payroll as soon as possible, in order for them to assess entitlement to SMP in relation to the pay during the qualifying period. SMP entitlement may be affected depending on individual circumstances.

7.6.15 Employees with any other form of financial agreement with the Council, for example, a car loan or overpayment schedule, must make the appropriate repayments during the Career Break. If this, for any reason, is not practical, then the outstanding balance must be repaid to the Council before the break commences.

7.6.16 Employees taking a career break will be entitled to a proportion of their contractual and statutory annual leave proportionate to the length of their career break, plus any bank holidays that would have occurred during the career break.

7.6.17 Contact arrangements and frequency will be agreed by the employee and manager before the career break commences and must be maintained between the Council and the employee during the career break as necessary. Employees should, where practicable, advise the Council of amendments to their contact details.

7.7 Purchasing Additional Annual Leave

7.7.1 The purchasing of annual leave gives employees the opportunity to increase their annual leave entitlement by reducing their salary accordingly. Employees will be able to purchase up to two weeks (10 days) extra annual leave, regardless of when they apply (pro rate for part time employees). The extra leave is added to contractual leave on itrent and not treated separately.

7.7.2 Employees applying for this prior to the start of the next leave year in April can spread the cost equally across the next 12 months providing applications are received by 1st March. This will minimise the impact on pay each month. Applications can be made at any point in the leave year but payments will be spread over the number of remaining months.

7.7.3 Payments for purchased leave will be based on the contractual pay of an employee's substantive post, is unaffected by changes in hours and is based on when the leave was purchased. Any adjustments as a result of re-grading or honorarium will be made at the end of that leave year. In the case of underpayment, employees may opt to pay the money in one lump sum or spread the payment by arrangement with payroll.

When a pay award is agreed, payments will be adjusted by payroll, as soon as is practical.

- 7.7.4 Employees off sick or going on maternity leave should consider withdrawing from the scheme as any leave untaken at the end of the leave year will be lost.
- 7.7.5 When an employee leaves, Payroll should be informed of how many days leave (including purchased additional leave) the employee has taken to enable the calculation of any over/under payment adjustment.
- 7.7.6 In exceptional circumstances, following discussion between an employee and their manager, it may be necessary for employees to withdraw from the scheme. The number of days purchased will be pro-rata to completed months, payments will cease and leave entitlement will be adjusted accordingly. However, no refund of payments will be made.
- 7.7.7 There are pension implications related to purchasing additional annual leave – see 5.10 above.

8. Evaluation and measures of success

- 8.1 All managers are responsible for ensuring that this policy is followed when receiving and considering applications for flexible working.
- 8.2 HR will record details of flexible working applications and current working arrangements for reporting purposes.
- 8.3 Success will be measured in a number of ways as flexible working has many benefits. Measures include:
- Increased employee satisfaction with their roles and the organisation in employee surveys
 - Improved recruitment and retention
 - Increased productivity
 - Reduction in sickness absence due to work related stress/burn out due to improved health and wellbeing and work/life balance
 - Improved morale and motivation
 - Financial benefits and reduction in costs due to reduced absenteeism and sickness absence

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