

NORTH LINCOLNSHIRE COUNCIL

CORPORATE SERVICES CABINET MEMBER

FLEXIBLE WORKING POLICY

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1. To seek approval for revisions to the council's Flexible Working policy.
- 1.2 This matter is urgent because the new statutory provisions come into effect on 6 April 2009

2 BACKGROUND INFORMATION

- 2.1 The Flexible Working policy forms part of the council's Human Resources (HR) Manual and was last reviewed following statutory changes in February 2008.
- 2.2 The policy provides for certain employees to request a variation to their working pattern, where they have parental/caring responsibilities. At present the statutory right applies to employees with parental responsibility for children under the age of six (or 18 in the case of a disabled child). It also extends to the carers of adults in certain circumstances.
- 2.3 In November 2007, the government announced that the statutory right to request flexible working would be further extended to parents of older children. An independent review was established to consider the age to which the cut-off should be raised and whether the increase should be staged. The review, which was published in May 2008, recommended that:
 - The age cut-off should be 16 and under; and
 - The increase should be made in a single step and not staged.
- 2.4 After some uncertainty about whether the change would be introduced in the current economic climate the original recommendations received Parliamentary approval during March 2009.
- 2.5 The statutory right to request flexible working is extended to parents of children under the age of 17 and comes into force on 6 April 2009.
- 2.6 The right remains to make a request for those employees who make an application to facilitate the care of a child under 18 years if disabled.

3 OPTIONS FOR CONSIDERATION

- 3.1 To consider and accept the proposed amendment to the policy.
- 3.2 To reject the proposed amendment.
- 3.3 To make recommendations to extend the provisions of the proposed policy beyond the statutory minimum requirements.

4. ANALYSIS OF OPTIONS

- 4.1 Acceptance of the revised amendment will ensure that the council continues to comply with legislative requirements surrounding flexible working requests.
- 4.2 Rejecting the proposed amendment would result in the council's approach not complying with legislation in this area.
- 4.3 Recommending further changes to the policy would require further consultation.

5 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

There are no direct financial implications.

5.2 Staffing

The procedure is applicable to all eligible employees of the council other than those employed by schools with delegated powers.

5.3 Property

None.

5.4 IT

None.

6 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)

- 6.1 The revised flexible working policy implements the Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2009.

7. OUTCOMES OF CONSULTATION

- 7.1 The relevant trade unions have been consulted and are supportive of the statutory revision but wish to reserve the right to discuss further extensions to the policy in the future.

8. RECOMMENDATIONS

- 8.1 That the proposed amendment to the Flexible Working policy be approved and adopted.

SERVICE DIRECTOR HUMAN RESOURCES

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Background Papers used in the preparation of this report: None

1.0 INTRODUCTION

- 1.1 This policy describes the steps to be taken where employees wish to apply for flexible working to provide them with more opportunity to balance work and family life whilst being compatible with, and beneficial to, service delivery.
- 1.2 Flexible working includes a wide range of working patterns. This policy provides for eligible employees to request any change to their normal working arrangements. Requests for flexible working may include, but are not exclusive to:
- a change to the hours an employee works;
 - a change to the times an employee is required to work;
 - a compressed working hours arrangement;
 - term-time only working.
- 1.3 Employees do not have an automatic right to flexible working, as there may be circumstances when their desired working pattern cannot be accommodated. However, every effort should be made to meet the request or find a mutually acceptable compromise.
- 1.4 This policy applies to all eligible employees of the council other than those employed by schools with delegated powers.

2.0 ELIGIBILITY

- 2.1 This policy describes the extent of the flexible working provisions open to employees who:
- are parents of children under the age of 17, or of disabled children under the age of 18;
 - are carers for a spouse, partner, civil partner or relative;
 - are carers for an adult who lives at the same address as the employee; or
 - who are making a flexible working request in order to comply with religious observance.

Note 1: A parent for this definition means the mother, father, adopter (this includes those who are adopting a child, whether domestically or from another country, where the child has not been placed by a UK adoption agency), guardian, special guardian, foster parent of the child or a person who has been granted a

residence order in respect of a child; or – married to or the partner/civil partner of the child's mother, father, adopter (this includes those who are adopting a child, whether domestically or from another country, where the child has not been placed by a UK adoption agency) guardian, special guardian, foster parent or a person who has been granted a residence order in respect of a child.

Note 2: *A relative for this definition means mother, father, adopter, guardian, special guardian, parent-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, uncle, aunt or grandparent and step-parent, step-son, step-daughter, step-brother and step-sister. Half-blood relatives are also included, as are adoptive relationships and relationships which would have existed but for an adoption, i.e. an employee's natural relatives.*

2.2 Employees will also need, as relevant, to satisfy the following requirements:

- have worked continuously for 26 weeks at the date of application
- have, or expect to have, responsibility for the child's upbringing
- be making the application to enable them to care for the child/adult
- be practising in the religion for which the change is requested
- not have made another application to work flexibly under the right during the previous 12 months at the date of the application

3.0 THE PROCEDURE

3.1 An employee can make one application in any 12 month period. The application must be made in writing to their immediate manager. This can be done by completing part 1 of the application form in Appendix 1.

3.2 The employee must give careful consideration to which working pattern will help them. The manager should draw attention to the financial implications of any reduction in hours and any annual leave or pension implications. An agreed request will normally result in a permanent change to an employee's contractual terms and conditions of employment. However, if it is mutually acceptable a temporary change may be considered.

3.3 Employees have a duty to give careful consideration to the effect that the proposed working pattern will have on the needs of the service and how these might be accommodated. These must be included in the written request.

- 3.4 The manager will arrange to meet the employee within 28 days of receipt of the request, to explore the proposed work pattern in depth and to discuss how best it might be accommodated. Alternative working patterns should be considered if there is a problem in accommodating the initial proposal. The employee may bring a trade union representative or fellow worker of the council to the meeting.
- 3.5 The manager will respond to the employee in writing by completing part 2 of the original application form within 14 days of the meeting:
- a) Accepting the request, setting out any action on which the agreement is dependent and establishing a reasonable start date taking into account the needs of the service. This must not be more than three months from the date of the agreement.
 - b) Confirming any compromise offered in the meeting to which the employee must respond within 14 days accepting or declining the proposal.
 - c) Rejecting the request and giving a clear reason as to why the proposal cannot be accepted and demonstrating its adverse effects on the council's service delivery. The reason must be one or more of the following:
 - burden of additional costs to the service/organisation
 - detrimental effect on ability to meet customer demands
 - inability to organise work within available staffing
 - detrimental impact on quality or performance
 - inability to recruit additional staff
- 3.6 If the original request or the compromise is agreed and adopted all original documentation relating to the request must be signed by the employee and manager. The documentation should be passed to the HR service team, who will arrange for a new statement of main terms of employment to be sent to the employee showing the agreed start date and notify the payroll section of any changes to the employee's salary.
- 3.7 If the employee agrees with their manager's decision for not adopting the new pattern all original documentation should be signed by the employee and the

manager and returned to the HR service team to be placed on the employee's personal file.

4.0 RIGHT OF APPEAL

- 4.1 Where an employee wishes to challenge the decision made by the manager they will have a right of appeal, which must be made within 14 days of receiving notification of the decision. This should be done by completing part 3 of the original application.
- 4.2 The appeals process is designed to be in keeping with the overall aim of the right of request for flexible working, encouraging both parties to reach a satisfactory outcome in the workplace.
- 4.3 The appeal must be made in writing to the relevant service director and state the reasons for appeal.
- 4.4 The service director will hear the appeal at which the employee and the manager must give reasons as to why they feel the pattern will or will not work. The employee may bring a trade union representative or a fellow worker of the council to the appeal hearing.
- 4.5 The service director will notify all parties of his/her decision in writing by completing part 4 of the original application form. The service director's decision is final.