



FLEXIBLE WORKING POLICY AND PROCEDURES

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1.0 LEGISLATIVE CONTEXT

1.1 In 2014 the Government changed the Flexible Working Regulations to extend the right to request flexible working to all employees who have a minimum of 26 weeks' employment. The Regulations also removed the current statutory procedure for considering such requests. Prior to this date only carers with children or with other defined care responsibilities could apply.

1.2 Key Points:

- Employees must have 26 weeks' continuous employment at the date the application is made;
- Employers have a statutory duty to consider applications in a reasonable manner;
- Once agreed it becomes a permanent change to the contract of employment, unless both parties agree to a temporary change;
- An employee may appeal, if necessary, against the outcome;
- Negotiate an agreement if requested hours are not possible;
- Only one application can be made in a 12 month period;
- The process for considering any requests, including appeals, must be completed within 3 months, unless an extension is agreed with the employee.

1.3 There is no requirement for Barony to accept the choice of flexible working. The application can be refused on the basis of one of a range of business-related reasons that are outlined in the legislation.

2.0 SCOPE OF POLICY

2.1 This policy applies to employees of Barony with at least 26 weeks' continuous employment. The Policy has been revised in line with the new statutory Regulations, which are administratively less onerous.

3.0 RELATED POLICIES

3.1 This policy should be read in conjunction with:

- Equality & Diversity Policy
- Health & Safety Policy Statement
- Grievance Policy & Procedure

4.0 WHAT IS FLEXIBLE WORKING?

4.1 There are many different forms of flexible working that cover the way our working hours are organised during the day, week or year. ACAS guidance includes the following examples of flexible working:

- **Part-time working:** Reducing your contractual working hours from full -time;
- **Flexi-time:** This usually involves employees being able to vary start and finish times but attending for 'core hours' (such as 10am- noon and 2pm-4pm). The system often allows 'time credits' to be accrued.
- **Job-sharing:** Typically, two employees share a specific role and work at different times during the week or day to cover the normal working hours.
- **Working from home.** New technology makes communication with office and customers possible by telephone, fax and email from home or other remote locations;
- **Term-time working.** An employee on a permanent contract takes paid or unpaid leave during school holidays, or annual hours are used.
- **Staggered hours.** Employees in the same workplace have different start, finish and break times - often as a way of covering longer opening hours;
- **Annualised hours.** This is a system which expresses contractual hours over a whole year, rather than per week, enabling seasonal peaks of work to be offset by lower hours at other times of the year.
- **Compressed working hours.** Employees work their total contractual hours over fewer working days - for example, a 9 day fortnight or a four day week;
- **Shift-working.** A pattern of work where one employee replaces another on the same job within a 24 hour period.

5.0 WHO QUALIFIES TO APPLY FOR FLEXIBLE WORKING?

5.1 In order to qualify for the legal right to make a flexible working request, the individual must:

- Be an employee (the Regulations are not legally applicable to Agency workers or office holders);
- Have a minimum of 26 weeks' continuous employment at the point of application;
- Have not have made an earlier request to work flexibly during the previous 12 months.

6.0 PROCEDURE- MAKING AND CONSIDERING REQUESTS

6.1 Making a Request

The right to request Flexible Working Regulations requires that staff must make their request in writing to their manager setting out:

- The date of the application, change to working conditions desired and when he/she would like the change to come into effect;
- What effect he/she thinks the impact of the change would have on their Unit/Team/Service and how any such effect could be managed/dealt with;
- Confirm that it is a statutory request and if a request has been made before, the date of that request;
- If applicable, the member of staff should also state if they are making the request in relation to the Equality Act 2010, for example as a reasonable adjustment for a disability.

A standard request form for staff to use is available as **Appendix 1**. Requests will be considered by the appropriate line manager:

Managers will seek guidance from Employee Relations in considering all requests and Employee Relations can also provide template letters. However, it is a management role to consider what impact the request would have on the Unit/Service and some thought should be given to that before consulting Employee Relations.

6.2 Receipt of a Written Request- Arranging a Meeting

Upon receipt of a written request, the manager will arrange to discuss it with the member of staff promptly at a meeting. The manager should seek guidance from Employee Relations in advance of the meeting.

Managers should aim to hold the meeting within 14 days of receipt of the application where possible. If either party is on holiday then an alternative suitable date, convenient for both parties, will be arranged.

6.3 Discussing the Request

Each application for flexible working will be considered on its own merits in the light of the current business requirements. Line managers will consider the request with an open mind. The meeting provides an opportunity to explore the detail of the change that is requested and how it might be accommodated.

It is helpful for any flexible working request to be treated like any other management conversation and should take place in a location where a private discussion can take place. However, it need not be face to face and if both people agree and it is more convenient, it can even be discussed by phone.

The employee may be accompanied at the meeting by a work colleague or Trade Union official should they wish and he/she should be told this in advance of the meeting.

6.4 Reaching a Decision

The manager will consider the request carefully, looking at the benefits of the requested changes for both the applicant and the business and weighing these against any adverse impact on the business, such as additional costs.

In considering the request, the manager will also consider possible advantages. For example:

- Home-working can reduce overheads and reduce travel time;
- Losing a member of staff will incur recruitment and training costs;
- Flexible hours enable individuals to manage their time and respond to peaks of work.

Both sides will discuss any potential flexibility with the aim of coming to a mutually acceptable outcome (for example, see paras.6.6-6.7) The manager may also talk to the Team about any re-organisation of work where this would be appropriate, before coming to a decision, after discussion with Employee Relations.

Barony has a statutory right to refuse a request only if one of the following business reasons applies (these are set down in the legislation). Consideration of all flexible working requests must include an assessment by the manager, with support from Employee Relations, as to whether any of the following business reasons apply:

- The burden of additional costs;
- An inability to re-organise work amongst existing staff;

- An inability to recruit additional staff;
- A detrimental impact on quality or performance;
- A detrimental impact on the ability to meet customer demand;
- it is not possible to re-organise work among existing staff; or
- There is a planned structural change to the Barony business.
- There is insufficient work for the periods the employee proposes to work.

Care will be taken not to directly or indirectly discriminate when dealing with requests from staff, for example in respect of staff who have a disability or have child-care responsibilities. Employee Relations will provide advice on equality aspects.

6.5 Notifying the Decision

Having considered the changes the member of staff is requesting and weighed up the advantages, possible costs and logistical implications, the manager will either:

- Accept the request, agree a start date, and confirm any other action needed;
- Confirm a compromise agreed during the discussion, such as a temporary agreement to work flexibly or trial period,
- Reject the request after discussion setting out clear business reasons, how these apply to the application and any appeal process.

Whatever the decision, it will be verbally communicated to the member of staff by the manager, then confirmed in writing. A copy of the request and decision letter will be sent to Employee Relations for the employee file and Employee Relations will issue a variation to the individual's Terms/Conditions, where required.

Once agreed, it becomes a permanent change to the contract of employment, unless both parties agree to a temporary change.

6.6 Trial Period

There may be cases where the manager is unsure about the possible impact of the flexible working request on the business and wants to have a trial period rather than rejecting the request out of hand.

This should be set out for the member of staff in writing and Employee Relations can advise on the form of words and suggest an appropriate period (usually 8-12 weeks) and review dates (e.g. monthly).

On the review dates, the manager and member of staff will discuss how the new arrangements are working and any adjustments that are necessary. These discussions can take place during normal Work Review discussions, if convenient.

6.7 Temporary Period of Flexible Working

In some circumstances a permanent change to an employee's contract may not be the best solution. If the employee is only looking for an informal change for a short period to their working hours or conditions, for instance to pursue a short period of study, the member of staff and line manager can agree to a time-limited change after which they would revert back to the original working pattern. This may include, for example, day release or flexibility of working hours or location of work to attend college.

The agreed temporary change/time period will be confirmed in writing by the manager with a date for review that has been agreed by both parties.

A copy of the request and decision letter will be sent to Employee Relations for the employee file and Employee Relations will issue a temporary variation to the individual's Terms/Conditions, if required.

6.8 Appeal

There is no legal right of appeal under the 2014 Regulations. However, Barony policy is to allow a member of staff whose request was turned down for business reasons, to have a further discussion on appeal if:

- There is new information that was not available at the time of the original decision; or
- The member of staff considers that their request was not handled in a fair or reasonable manner in line with this Policy.

The appeal will be submitted in writing setting out the reasons for the appeal. Appeals must be submitted within 10 working days from written notification of the original decision.

The appeal will be considered by the line manager of the manager who considered the original request. An appeal meeting will be held and the member of staff may be accompanied by a work colleague or Trade Union official. Advice should be sought from Employee Relations prior to the meeting. The appeal meeting should be held as soon as possible, and early enough to meet the statutory requirement to

have all stages concluded within a period of 3 months from first receipt of the request.

If an appeal is to be upheld the written notification will give the reasons, state the changes to terms and conditions involved and the date from which the changes will take effect. Employee Relations will be advised of changes in advance, within timescale.

If an appeal is to be dismissed a letter will explain the grounds for the decision.

7. MAKING SUBSEQUENT REQUESTS

An employee can only make 1 statutory request in any 12 month period.

8. FAILURE TO ATTEND MEETINGS.

If the member of staff does not attend an arranged meeting and a subsequent rearranged one without a reason, then the law allows Barony to deem the application as withdrawn. However, best management practice is to consider the reasons for the failure to attend both meetings before reaching a decision to close the application. The member of staff will be notified of the decision.

9. REVIEW

This Policy and its operation will be reviewed every three years by Employee Relations or earlier in response to operational or legislative changes.

BARONY HOUSING ASSOCIATION

APPENDIX - STATUTORY FLEXIBLE WORKING REQUEST FORM

Please use this form to make an application to work flexibly within Barony under the Flexible Working Policy.

It will help your line manager to consider your request if you provide as much information as you can about your desired working pattern. Also think about the impact your proposed change in working pattern will have both on your job, your team and consider how any adverse impact could be managed or resolved.

Once you have completed the form, forward it immediately to your line manager, who will try to meet you within 14 days of receipt.

If the request is granted, this will be a permanent change to your terms and conditions of employment, unless otherwise agreed with your line manager.

Employee Name	
Role	
Service/Team	
Line Manager	
Date of Application	
Date of Earlier Request (if appropriate)	

1. Describe your current working pattern and hours of work (days/hours/times worked):

2. Describe the working pattern you would like to work in future (days/hours/times worked):

3. Ideally when would you like this change, if approved, to take effect:

Date:

4. Impact of the new working pattern

How will this change in working pattern affect Barony, your own job and your team/colleagues?

5. Accommodating the new working pattern

How can any effect of the change be can be dealt with to minimise any impact?

PLEASE PASS THIS APPLICATION TO YOUR LINE MANAGER

Note to the line manager: This is a statutory request for flexible working. Aim to meet the applicant within 14 days of receipt (or another date that is mutually convenient). Refer to the Policy for guidance and seek advice from Employee Relations in advance of the meeting.

You may find it helpful to return or email the following to confirm receipt of the application.

Confirmation of Receipt of Statutory Flexible Working Request

To:

I confirm that I received your request to change your work pattern.

I shall arrange a meeting to discuss your application within 14 days, if mutually convenient.

Line Manager:

Date: