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Cymru · Wales

Flexible Working Policy

Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.
This document is also available in Welsh.

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1. Scope and Responsibility

- 1.1 This policy and procedure applies to all staff who have a Contract of Employment with PSOW.
- 1.2 This policy seeks to provide a consistent and fair framework for flexible working, nothing in this policy fetters or restricts the exercise of any discretion. Line managers have day-to-day discretion to operate the policy fairly, consistently and in the light of any particular circumstances. Any proposal to depart significantly from the policy should, however, be discussed with the Human Resources Business Partner in the first instance and at the earliest opportunity.
- 1.3 As an employer, if we receive a statutory flexible working request, we must:
 - a) Accept the request unless there is a genuine business reason not to.
 - b) Consult the staff member before making a decision – unless we accept it in full.
 - c) Make a final decision, including any appeal within 2 months.
 - d) Handle the request fairly and reasonably, in line with the Acas Code of Practice on requests for flexible working.
- 1.4 This policy does not form part of any contract of employment and the PSOW may amend it at any time.

2. Definitions

- 2.1 'Line Manager': Where reference is made to 'Line Manager' in this policy, staff are expected to substitute the following, in order, where their own 'line manager' is not available:
 - a) Acting line manager
 - b) Other line manager
 - c) Line manager of their line manager.

3. Abbreviations

- 3.1 'COO/DOI' in this policy means Chief Operating Officer/Director of Improvement or in his absence Chief Legal Advisor & Director of Investigations.
- 3.2 'HRBP' in this policy means Human Resources Business Partner.

4. Introduction

- 4.1 PSOW supports the principles of flexible working and acknowledges the importance for staff of achieving a balance between work and personal commitments. PSOW also recognises that flexible working can provide benefits to the organisation, such as helping attract good candidates, retaining staff, increasing diversity, improving productivity and enhancing a positive working culture.
- 4.2 The PSOW welcomes requests from all members of staff for flexible working. When considering each request, PSOW will take account of the factors set out in paragraph 4.11 of this policy but will endeavour to grant requests where possible.
- 4.3 Support for flexible working is in addition to the flexibility provided by flexitime and annual leave arrangements. These are addressed in the Flexi Time and Leave Policy.
- 4.4 There are many different forms of flexible working e.g.
- working from home 100% of the time – remote working
 - adaptations to hybrid working
 - compressed hours
 - term-time working
 - temporary reduction in hours
 - part time hours
 - staggered hours
 - job sharing

- 4.5 Requests for flexible working may be made in Welsh or English and will be handled in the language of the request.
- 4.6 All members of staff may submit a formal request for flexible working from day 1 of their employment.
- 4.7 The statutory procedure requires that requests for flexible working (including any appeal process) are dealt with within 2 months of the written application, although this timescale may be extended by agreement. Where possible the PSOW will ensure that decisions are made well within this timescale.
- 4.8 Any member of staff can make an informal request to work flexibly without following the statutory procedure.
- 4.9 Staff can make 2 flexible working requests in any 12 month period rather than 1.
- 4.10 Staff have a right to request flexible working and should not suffer any detriment as a result of making a request.
- 4.11 If multiple requests are received for a similar change, it may not be possible to accept everyone's request. Consequently, in such circumstances, the line manager should talk to each staff member about alternative options and try and find a compromise. However, if no alternative that works for everyone can be agreed, the request will be handled fairly by:
- a) considering each request in the order they were received
 - b) following the same procedure for each request
 - c) looking at what is possible, rather than matching previous decisions
 - d) not prioritizing requests based on people's personal situations – unless someone is requesting a reasonable adjustment related to their disability.

5. Eligibility

- 5.1 In order to be eligible to request flexible working a member of staff must have a Contract of Employment and be an employee (not an agency worker).

6. Scope of a request

6.1 An eligible member of staff has a legal right to request:

- a change to hours of work
- a change to the times of work
- a change to the place of work

6.2 PSOW will also consider requests for other forms of flexible working under this policy.

6.3 Any change to terms and conditions made as a result of a flexible working request will be permanent, unless PSOW agrees to a temporary variation.

7. Content of the request

7.1 Flexible working can incorporate a number of changes to working arrangements. A member of staff may therefore request a variation of the employment contract in respect of, for example:

- a change to the number of hours to be worked
- a change to the days and/or times when hours are worked
- set annual hours where the length of the working day and week vary over a year
- part-time working
- job-sharing
- working term-time only
- working shifts
- a change to the location of work (home or PSOW offices) for specified times / days

8. Procedure

8.1 A member of staff making a flexible working request must follow this procedure. However, before making an application the member of staff should think about:

- what working pattern will best achieve their aims
- the financial implications a change might have on them
- what effects, if any, the change will have on the PSOW's business and how these might be accommodated.

8.2 The application should be submitted to the line manager and must:

- be made in writing, either in a letter or email and dated
- state that it is a 'statutory request' for flexible working state if you have made any previous statutory flexible working requests to PSOW and provide the date of previous requests specify the change applied for and the date on which it is proposed that the change should become effective
- explain what effect, if any, making the change applied for would have on PSOW and how any adverse effect might be dealt with.

8.3 The line manager will consider the request. The line manager may simply agree to the formal request without discussing it with the member of staff (for example, if the details of the request have already been discussed informally). However, the line manager must not reject a request without consulting with the staff member first.

8.4 In most cases the line manager will arrange to meet with the member of staff promptly after receiving the application.

8.5 Staff can make a maximum of 2 requests during any 12 month period and only have one 'live' request with the same employer at a time.

8.6 A request will stay live until any of the following happen:

- a) PSOW makes a decision
- b) you withdraw your request

- c) you and PSOW agree an outcome
- d) it's been 2 months since the date of your request.

8.7 A request will stay live during:

- a) Any appeal
- b) Any extension to the 2 month decision period, if you and we agree to extend it.

8.8 The legal duty to make reasonable adjustments is separate to the legal duty to consider a flexible working request. If a staff member makes a flexible working request related to their disability, PSOW must follow both the statutory procedure for flexible working requests and the law on reasonable adjustments when making a decision.

8.9 The law on reasonable adjustments does not apply if the flexible working request is not disability related.

8.10 Any extension to the 2 month time limit to consider an application, must be agreed by both parties and must be confirmed to the staff member in writing, either by letter or email.

9. The Meeting and formal consideration

9.1 The time and place of the meeting will be convenient to both the member of staff and the line manager.

9.2 A work colleague may accompany the member of staff at the meeting. That colleague will be permitted to confer with the member of staff during the meeting and to address the meeting (but not to answer questions on behalf of the member of staff).

9.3 If the chosen colleague will not be available at the time proposed for the meeting and the member of staff proposes an alternative, mutually convenient time, the manager will postpone the meeting to the time proposed by the member of staff. Alternatively, the member of staff should consider choosing another colleague to accompany them.

- 9.4 At the meeting the requested variation to working arrangements will be discussed fully. The impact of the change, and the ideas of the member of staff for how any adverse impact could be minimised, will be considered. The meeting also provides the opportunity to discuss any alternative variations which would be acceptable. The line manager may suggest implementing an agreed trial period for the new arrangements.

10. The Agreement

- 10.1 If PSOW agrees to the application, written confirmation specifying the contractual variation agreed to and the date on which the variation is to take effect, will be sent within 10 days of the decision being made.
- 10.2 If PSOW agrees to the changes requested by the member of staff, a permanent variation of the employment contract will result, unless otherwise agreed by the line manager. A trial period may be agreed to ascertain whether the arrangements work for both parties. Once a permanent change has been made, the member of staff cannot choose to revert to the previous terms and conditions of employment.
- 10.3 Both PSOW and members of staff are expected to respect the spirit of flexible working and PSOW's Values. Requests will be agreed where reasonably possible and agreements will reflect the need for the member of staff to attend team meetings, training, meetings etc. and other requirements arising from their job (such as Standards Committee meetings, Adjudication Panel hearings etc.).
- 10.4 A member of staff may make further applications for variations (whether or not the first application was successful).

11. If the request is refused

- 11.1 As an employer, we must agree to a staff member's flexible working request unless there is a genuine business reason not to. Unless we agree to a request in full, we have a legal obligation to consult the staff member before making a decision. Consulting means talking and listening to the staff member about their request, to make a fully informed decision. The line manager should think carefully about the request and what else might be possible. For example, accepting part of the request or offering an alternative option.

11.2 A request can only be rejected if it is for 1 or more of the following business reasons:

- it will cost the organisation too much
- there will be a negative effect on PSOW's ability to meet customer demand
- an inability to re-organise work among existing staff
- an inability to recruit additional staff
- there will be a negative effect on quality of work
- there will be a negative effect on performance
- there is not enough work for the staff member to do when they have requested to work
- there are planned changes to the organisation, for example, an intended reorganisation or change means that the request will not fit with these plans.

If any of the above reasons apply, the line manager must consult the staff member before making a decision.

11.3 In deciding whether the above grounds are met, a wide range of criteria will be taken into account, including (by way of example only) the following:

- PSOW's business needs
- the suitability of the job for the flexible arrangements proposed, e.g. the nature of the work, the hours needed and the need for continuity and consistency
- the current balance of full-time and part-time employees and other flexible working arrangements within the department or team
- the feasibility of covering the remaining hours

12. Withdrawal of application

12.1 The member of staff may withdraw their application for flexible working at any point before it, or a variation on it, has been agreed. This can be done orally or in writing to the line manager. PSOW can treat an application as withdrawn under the statutory provisions where the member of staff has:

- without reasonable cause, failed more than once to attend a meeting or appeal meeting
- without reasonable cause, refused to provide the line manager with information required in order to assess whether the requested contract variation should be agreed to.

12.2 The line manager will confirm the withdrawal of the application in writing unless the member of staff has already provided written notice of the withdrawal.

13. Appeal

13.1 PSOW will allow an appeal against a decision to refuse an application for flexible working. If the member of staff wishes to appeal, they should do so within 7 days of the date they were notified of the decision. The notice of appeal must be addressed to the COO/DoI in writing, setting out the grounds for appeal.

13.2 The COO/DoI will hold a meeting with the member of staff to discuss and consider the appeal. The time and place of an appeal meeting will be convenient to both the member of staff and the COO/DoI. The member of staff has the same right to be accompanied by a work colleague as at the initial meeting.

13.3 After the appeal meeting the COO/DoI will write to the member of staff with a decision. If the appeal is upheld the letter will specify the contract variation agreed to and state, the date on which it is to take effect. If the appeal is dismissed, the letter will state the grounds for the decision and contain an explanation as to why those grounds apply.

14. Informal request for flexible working

- 14.1 A member of staff can make an informal request under the procedure to the line manager at any time. The line manager will consider the request according to PSOW's business and operational requirements.
- 14.2 The request should be in writing, giving details of the variation and how any detrimental impact on the workplace might be managed. The request should also state whether the change requested is temporary or permanent.

15. Monitoring, review and publication

- 15.1 This policy will be reviewed every 2 years and published internally.
- 15.2 Any queries about this policy can be directed to policycontrol@ombudsman.wales