



College of  
Policing

# FLEXIBLE WORKING IN THE POLICE SERVICE

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ASSOCIATION OF  
CHIEF POLICE OFFICERS



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### **Amendments**

Version	Page	Amendment Made	Dated
V2.1	28	Clarification on parental leave	May 2013

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## Introduction

This document is for ease of the reader, split into issues relevant for the manager, the police staff applicant and the police officer applicant. The appendices provide further information for all users and useful workplace examples are given throughout the entire document. It is suggested that applicants and managers not only read the section relevant to them, but to read the section relevant to the other party. In this way a more constructive and meaningful conversation is likely to follow.

Where it is published, local force policy on Flexible Working must be followed. If specific advice is required, managers or applicants should speak with their HR unit. Additional support or advice may also be available from staff association or union representatives.

More and more people want or need flexible working arrangements in order to meet the changing demands in their domestic lives. Flexible working can benefit a wide range of people from those with a caring responsibility through to those who may simply prefer a better work/life balance. One type of shift pattern or the regular 9 to 5 day will not suit every person and, with the changing needs of policing, it no longer meets the operational demands on Police Forces.

- In 2011 nearly 6% of all police officers worked part time; 93% of them were women<sup>1</sup>
- In 2012 police staff represented around 40% of the Police Service of England and Wales.
- Women made up 47% of PCSOs and 68%% of police staff
- Women made up 27% of total police officer strength
- 24% of all police staff worked part time; 85% of them were women

It is generally recognised that women are the principle carer within a family and as the peak age for women to have a baby is 30<sup>2</sup> and the average age of police officer recruits is 27<sup>3</sup>, caring responsibilities are likely to be a disproportionate issue for female officers and staff in this age range. However, not only do some men have the primary caring role, a larger number of men may share the caring responsibilities with their partner. Likewise the same may be true of staff, who later in their career, take on an adult or child caring role. It is therefore important that employers understand the potential need for flexible working across the whole workforce.

Whilst a caring responsibility is likely to be the main reason supporting application, flexible working arrangements can be applied to other areas such as part time study or just to have a manageable work life balance. Due consideration must be given to all applications.

To retain staff, it is vitally important that the Service operates the sort of flexible working arrangements that allow staff with caring responsibilities to continue their careers as well as ensuring operational resilience on a 24/7 basis.

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<sup>1</sup> PNB Equal Pay Audit 2011

<sup>2</sup> Office of National Statistics

<sup>3</sup> NPIA SEARCH Technical Reports;

## **The Benefits of Flexible Working**

The benefits for the Police Service of flexible working include:

- retention of valuable officers and staff;
- wider diversity of recruits attracted to and retained by the Service;
- reduced recruitment and training costs;
- flexible working to meet operational demands;
- reduced sickness absence; and
- improved morale and commitment

Applied intelligently, flexible working makes good business sense and managers should view it as a cost effective way of meeting peaks and troughs in policing demand, whilst reducing the wage bill in respect of overtime payments and sickness pay. Increased flexibility results in a more diverse healthy and committed workforce.

There is no 'one size fits all' pattern of work-life balance practices. It is important that Forces are able to offer a flexible menu of working patterns so that officers and staff can come up with something that suits their individual circumstances and that fits in with the policing needs of the Force.

## **Guiding Principles**

- It is of primary importance that Chief Officers should ensure that their commitment to flexible working is successfully communicated within their Force. Inaccurate perceptions of the impact of flexible working have resulted in instances where those who work flexibly receive criticism by their peers, who wrongly take the view that they carry the additional workload when their colleague is not at work. Line managers must be supportive of those who work flexibly and ensure that the benefits are made known across the team.
- There should be a presumption that requests for flexible working will be accommodated unless there are significant operational or business needs.
- Although there are significant differences between the flexible working arrangements for police officers and police staff it would be appropriate for forces to have a policy that covers everyone. Additionally, many Forces have a Flexible Working Policy that provides police staff with the same opportunities to work flexibly as is available to police officers.

This does not mean that Forces are required to provide officers or staff with particular working arrangements. First and foremost flexible working provides Forces with a range of options designed to deliver a comprehensive demand-led service to the public. In many instances the needs of the Force and the needs of officers will fit together.

### **Flexible and part-time working**

A force has revised its policy so that

- Staff are encouraged to discuss potential options with their line manager prior to submitting a formal application
- An unrestricted application process for both officers and staff – staff can apply for any reason and additionally officers are asked to state whether they require to work flexibly for the statutory caring criteria
- In the event of a large demand in a particular area, the statutory criteria is used to prioritise applications
- Statutory time frames are used for both officers and staff
- A 12 month review period is incorporated into every application. Additionally applications are reviewed during times of organisational change/re-structure.
- The application form incorporates an impact assessment which covers the points raised within the guidance for managing a flexible working application.



## **Guidance for Managers**

Requests for flexible working should be considered as providing a balance between the needs of the individual and the needs of the Force. There should be a presumption that flexible working can work unless there are genuine operational or business reasons why it could not. Both parties should be prepared to negotiate, compromise on what they want, and to be creative about possible solutions.

“I had an unusual request for a member of staff in my Department to reduce her hours and start early. She needed to be at home each afternoon. After discussion we agreed that she didn’t have to reduce her hours but that she could start at 4am, leaving at lunchtime. The building is staffed 24 hours a day so she is not alone in the building. Much of her work can be done when offices are shut, so this fits us both perfectly”.

Applied intelligently, flexible working can make sound operational and business sense:

- An additional part time worker can relieve the workload of others
- A person working additional hours over their agreed hours does not accrue enhanced payment until they have worked full time hours in a period
- It can improve attendance and enable officers and staff to be retained

Although there are statutory procedures that impact on police staff and equality legislation that impact on some officers and staff who apply for flexible working, managers will not breach the legislation if:

- (a) they give prompt consideration to the request
- (b) they identify their operational/business requirements for the role
- (c) they identify the applicant’s personal requirements
- (d) they balance (b) and (c) to give serious consideration to the request

Serious consideration means that any refusal can be objectively justified as being a proportionate means of achieving a legitimate aim.

Each application for flexible working should be considered on its own merits. There should be no restrictions because of the number of officers or staff already working flexibly or reduced hours. There is no legal requirement to work a minimum number of hours or to drop from full time hours to have flexible working.

Where a number of applications are received simultaneously, priority should be given to those applications supported by legislation. See Appendix E for further details of the legislation that applies”.

Flexible working should not be awarded as a prize for good behaviour. A person's sickness absence or appraisal review should only be taken into account when it is relevant to the application. Attendance or performance may be improved if an officer or member of police staff is able to reduce their hours.

The Employment Rights Act 1996 and Flexible Working Regulations 2002 (as amended) sets out a number of reasons that an employer could refuse an application for flexible working. Whilst these reasons apply only to police staff, they give some guidance as to the considerations that should apply to all applications for flexible working. These reasons are:

- the burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to re-organise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality or performance
- insufficiency of work during periods the employee proposes to work
- planned structural changes

Policing demands change on a daily, weekly, monthly and annual basis. It is important that these demands are taken into account when considering an application for alternative working or reduced hours. A Force needs to identify the requirement for policing hours in each job, unit or policing area. A rigid adherence to "establishment figures" in an area can work against the provision of alternative working patterns. Where the demands are increasing or excessive, it may be appropriate to reconsider the policing requirements in the area and provide for additional full or part time officers to provide effective policing in the area. Managers are advised to consult their HR lead for further information on this area.

There is nothing to stop managers from identifying and advertising part time or flexible working opportunities in particular areas or in particular roles.

"I was asked by a woman response PC if she could work days for a 6 month period because she had a crisis at home. I agreed to her working the day shift that followed her shift so that she remained in touch with them. She undertook all the follow-up work her shift had not been able to complete – statements, crime enquiries, bail appointments etc. She was so popular with the shift that they wanted the role to be a permanent fixture".

An application for flexible working may be refused if the application does not fit with the requirements of the policing area or the demands of the Force. If the demands of the role are such that it cannot be done other than full time or on a rigid shift pattern, or if a job share partner cannot be found, the matter should be discussed fully with the applicant and consideration given to alternative posts in the Force where their requested shift pattern can be accommodated.

“We have a Section that works full time made up of 3 x 10 hour shifts, 7pm – 5am, in the City Centre on Thursday, Friday and Saturday nights – the busy times. The remaining 10 hours per week are worked flexibly as and when required during the week to meet bail, file and court requirements. We were over-subscribed with applications”.

Police staff are employed in a particular post; however this is not the case for police officers who can be required to work in any role in the Force. Consideration of an application for flexible working for a police officer requires that if an officer cannot be accommodated in their existing role, their application should be considered with respect to other police officer roles in the Force.

The applicant may not be aware of all the possible options, so managers should take the opportunity to establish the applicant’s minimum requirements e.g. available childcare; partner’s shift patterns etc.

“As a BCU personnel manager, I am trying to ensure that when the request is submitted I am automatically included in the meeting between the line manager and the employee. This means that I can provide support and advice and ensure consistency in decision making across the BCU”.

## **Health and safety**

Chief Officers and managers have an established duty of care to provide a healthy and safe working environment for their employees. Particular risks may also be encountered by staff who request to work alternative shift rotas or extended periods of duty. These issues should be fully discussed and where necessary the individual be encouraged to plan for alternative arrangements should tiredness become an issue. Such planning does not however remove the requirement on the line manager to comply with other legal requirements and policies on night working and driver fatigue control measures.

Managers should also be aware of risks associated with approving flexible working which results in staff working on their own. Advice to managers on compliance with health and safety legislation can be found via the following link. <http://www.hse.gov.uk/pubns/indg73.pdf>

## **Managing part time officers**

Although it is important that every worker has a nominated supervisor, that supervisor need not be on duty at all times with the part time worker. Appraisals and other line management activities can be programmed into the available working time. Some officers may not need continuous supervision or, if they do, they could be allocated to different supervising officers. It should be remembered that full time officers do not always provide continuous supervision of staff.

Supervisors responsible for officers and staff working flexible or reduced hours should ensure that the culture in their area supports those people and their working arrangements. They should not expect full time workers to deliver more work to

accommodate the work left by those working reduced hours or for people working reduced hours to deliver the same work as a full time person.

Officers working flexible or reduced hours are still serving police officers and can be required to stay on after their agreed hours if there is a need. Care should be taken to ensure that those working reduced hours are not the only officers required to work additional hours, but exigencies of duty may require that their rest days or free days are cancelled in the same way that full time officers are required to adjust their leave or shifts

### **Reviewing an application**

A flexible working agreement needs to be monitored to ensure that the required work is being undertaken, and that the officer is not being required to work excessive additional hours. A part time or flexible working agreement should be reviewed every year or earlier if it appears not to be working. The flexible working agreement may need to be renegotiated.

It became clear that the Criminal Justice Unit was paying officers to work overtime at weekends. The Inspector reviewed the workload of the Unit and decided to alter the shift patterns of all officers working there. All full and part time officers working in the Unit were required to change their hours so that they worked one weekend day every 4 or 5 weekends.

## **Checklist: How to Manage a Request for Flexible Working**

### **1. Establish the needs of the role**

- Have you identified the busy and less busy hours in the day, week, and year?
- Do you need the same numbers of people on each shift?
- Have you ever advertised part time opportunities?

### **2. Establish the applicant's needs**

- What are their absolute restrictions?
- Does the Applicant have restrictions caused by others; e.g. childcare?
- Can a combined solution be found if the partner also works for the Force?

### **3. Consider the request**

- Consider the impact of the request on other people in the area/unit.
- How will the new arrangements be supervised and evaluated?
- Would reduced hours improve the applicant's performance?

### **4. Consider other solutions**

- Consider what other working patterns might be more suitable
- Could the remaining hours be a solution for someone else?
- Could the requested pattern work elsewhere in the Force? (some Police staff )
- Seek to achieve compromise and avoid making on-the-spot decisions

### **5. Before making a final decision**

- Ensure that the consequences of accepting the proposal (e.g. on pay, pension or conditions of service) are explained.
- Seek advice from HR specialists to ensure consistency across the Force.
- Be sure that any refusal is supported by lawful, objective reasons.
- Make sure that any agreement is in writing and is unambiguous

### **6. After an agreement is reached**

- For police staff the new arrangement is a permanent change to their contract, but police officers may end the arrangement if it does not meet their needs.
- Advise other team members of the change in working hours
- Be prepared to address any problems that may arise from the change.

### **7. Monitor and Review (and if necessary, renegotiate)**

- Review working arrangements every 12 months (Police Officers)
- Ensure that officers and staff working flexible hours are informed and involved
- Let them know when training and policing opportunities arise.

## **Guidance for Police Staff**

Employment legislation under the Flexible Working Regulations 2002 (which does not apply to police officers) gives police staff who have been continuously employed for a period of not less than 26 weeks the statutory right to ask for flexible working if they:

- have or expect to have parental responsibility of a child aged under 17;
- have or expect to have parental responsibility of a disabled child under 18 or a person who receives a disability benefit paid by the benefits office;
- are the parent / guardian / special guardian / foster parent / private foster carer / adopter or as the holder of a residence order or the spouse, partner or civil partner of one of these and are applying to care for the child; or
- are a carer who cares, or expects to be caring, for an adult who is a spouse, partner, civil partner or relative; or who although not related to you, lives at the same address as you

Under the law the Force must seriously consider an application, and only reject it if there are good business reasons for doing so.

“I work part-time as the Business Marketing Manager and was in a full-time in post, but after my maternity leave wanted to reduce hours, to work 3 days. In addition, to allow some role development for me, and to cover the costs of allowing an overlap between me, and an additional part-timer, I suggested that the "other -half" be a lower grade, who I would manage but they could work 3 days as well, which is more attractive as part-time hours, and obviously allowed us to catch up with projects etc.

The force happily agreed to this, believing that you got dedicated workers in response for supporting flexible working. We actually ended up recruiting someone who was due to retire within two years (although he has subsequently extended this) - this has worked very well, as the person has immense experience and personal motivation to do the job with little role supervision, and has made us a strong team of two part-timers.

After 12 months, I wanted to spend even more time with my daughter and requested to reduce my hours to 2½ days, to achieve a better work life balance. The Force also agreed to support this. This has worked much better for me, although I appreciate that meetings need to take place on my non-working days, and so try to accommodate these where I can. So there is reciprocal flexibility”.

Any change to an employee’s working hours is a permanent change to their contract and a new employment contract will have to be signed with the Force setting out the new working hours, leave, pay and any allowances.

Staff working part-time are entitled by law not to be treated less favourably than their full-time colleagues. They are entitled to training and to work additional hours if it is available. Their pay and allowances, including leave, should be paid on a pro-rata basis.

### **Making an application**

Police staff are protected and governed by the legislation that deals with flexible working. This requires that an employee has at least 26 weeks continuous service with their Force, and allows them to make one application per year, although Force policy may have improved on this position.

It is always considered good practice for some dialogue to take place between the individual and the line manager before a formal, application is submitted. Such dialogue may aid the process in terms of timescales, set out what is realistic and ultimately negate the need for appeals.

Police staff should submit an application to the appropriate person well in advance of the date they wish the request to take effect. However, if the member of staff wants to work flexibly on return from maternity leave, it is best to time the application to coincide with their return to work. If they apply too early and the pregnancy does not go exactly to plan, they may not have the most suitable working arrangements and may not be able to make another application for a year.

When making an application to work flexibly a member of staff must specify what effect, if any, the proposed changes will have and how any such changes can be dealt with

An application should be made in writing and be dated. It should provide as much information as possible about the desired working pattern. Forces may have their own form for flexible working applications which should be used where possible. There is however a standard form produced by the Department for Business, Innovation and Skills (BIS) which can be used. A copy of the BIS form can be found at Appendix H.

The applicant's line manager should acknowledge receipt of their application in writing. The form should provide a tear off strip for this purpose.

The manager (or other person designated by the Force) must arrange to meet with the applicant within 28 days of receipt of the application, unless the request to change hours is accepted, in which case the Force must confirm the agreed changes to hours, pay and other terms and conditions in writing.

If they do not immediately accept the application to work flexibly, the Force must invite the applicant to a meeting to discuss the application. The applicant can be accompanied by a colleague or trade union representative.

If there has been no immediate agreement, the applicant's manager (or other person designated by the Force) must notify the applicant within 14 days of the date of the meeting of their decision and state which of the grounds for refusal apply, and why they apply.

There are statutory grounds for refusal; namely:

- The burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise work among existing staff

- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes
- Any other ground the Secretary of State may specify by regulations (there are currently no other grounds)

The letter must also set out the appeals procedure.

### **Making an appeal**

An appeal must be made in writing within 14 days of being notified of the decision to refuse the alteration to the applicant's hours. It should set out the reasons for the appeal, together with any new supporting argument or change in circumstances. The appeal should be dated and directed to and be dealt with by another more senior manager

The manager (or other person designated by the Force) should arrange a meeting within 14 days of receipt of the appeal, unless they agree and uphold the request. If this happens the Force should write to confirm the agreed changes to hours, pay and other terms and conditions.

If the request is refused at the appeal stage, the Force should write to the applicant within 14 days of the meeting, stating the grounds for rejection and how those grounds apply. This is the end of the statutory procedure. There is no further appeal stage, unless the Force procedure allows for this. The time scales stipulated can be varied by mutual agreement.

### **Unlawful Treatment**

If no variation has been agreed and the Force has not adhered to the time scales, or if they failed to set out the justification for refusal in the correct way, the applicant may be able complain to an employment tribunal

In some circumstances a refusal to allow a member of police staff to work part time or flexibly could give rise to a claim of unlawful indirect discrimination; for example, a requirement to work particular hours could disadvantage women as more women than men have primary responsibility for childcare. Indirect discrimination cases turn on the question of whether the force's reasons for refusing the request are justifiable. This means assessing whether the force has shown that the refusal is a proportionate means of achieving a legitimate operational aim.

Claims to an employment tribunal must be lodged within three months less one day of the date of the discrimination. In flexible working cases this usually means the date of the refusal. Staff should seek prompt advice from their trade union if they believe that they may have a claim.



Before completing either the internal form or the BIS form (Appendix G) police staff should read their Force's Flexible Working Policy and discuss their working options with their manager.

## **Checklist: How to Make a Request for Flexible Working**

### **1. Prepare your application**

- Discuss potential for flexible working with your manager
- Consider any impact on your pay, pension, leave etc.
- Read the force's flexible working policy to establish how to use the procedure

### **2. Identify your needs**

- What are your reasons for wanting to work flexibly?
- What other support is available to you?
- Do you want the hours or the role?

### **3. Consider the Force's needs**

- Are you in a role that requires you to be on duty/available at certain times?
- How would you be managed and/or how you would manage others?

### **4. Be prepared to compromise**

- Are you prepared to change roles and/or location?
- Can you alter the hours to better meet the Force needs?
- Can you get additional support from your partner or others?

### **5. Make a written request**

- Make your request well in advance of when you wish it to start
- Clearly set out your current and proposed working arrangements
- Emphasise the advantages to you and any to the force

### **6. Request a meeting to discuss your application**

- Take your staff association/trade union representative with you
- Listen to any concerns raised
- Address these if you can or seek time to consider the issues if you need to

### **7. Balancing the needs of the Force with your needs**

- You need to recognise and try to meet the Force operational/ business needs
- The Force needs to recognise and try to meet your work life balance needs
- Co-operation and negotiation are key to getting the right balance

### **8. If your application is successful**

- Raise any problems which arise as soon as possible

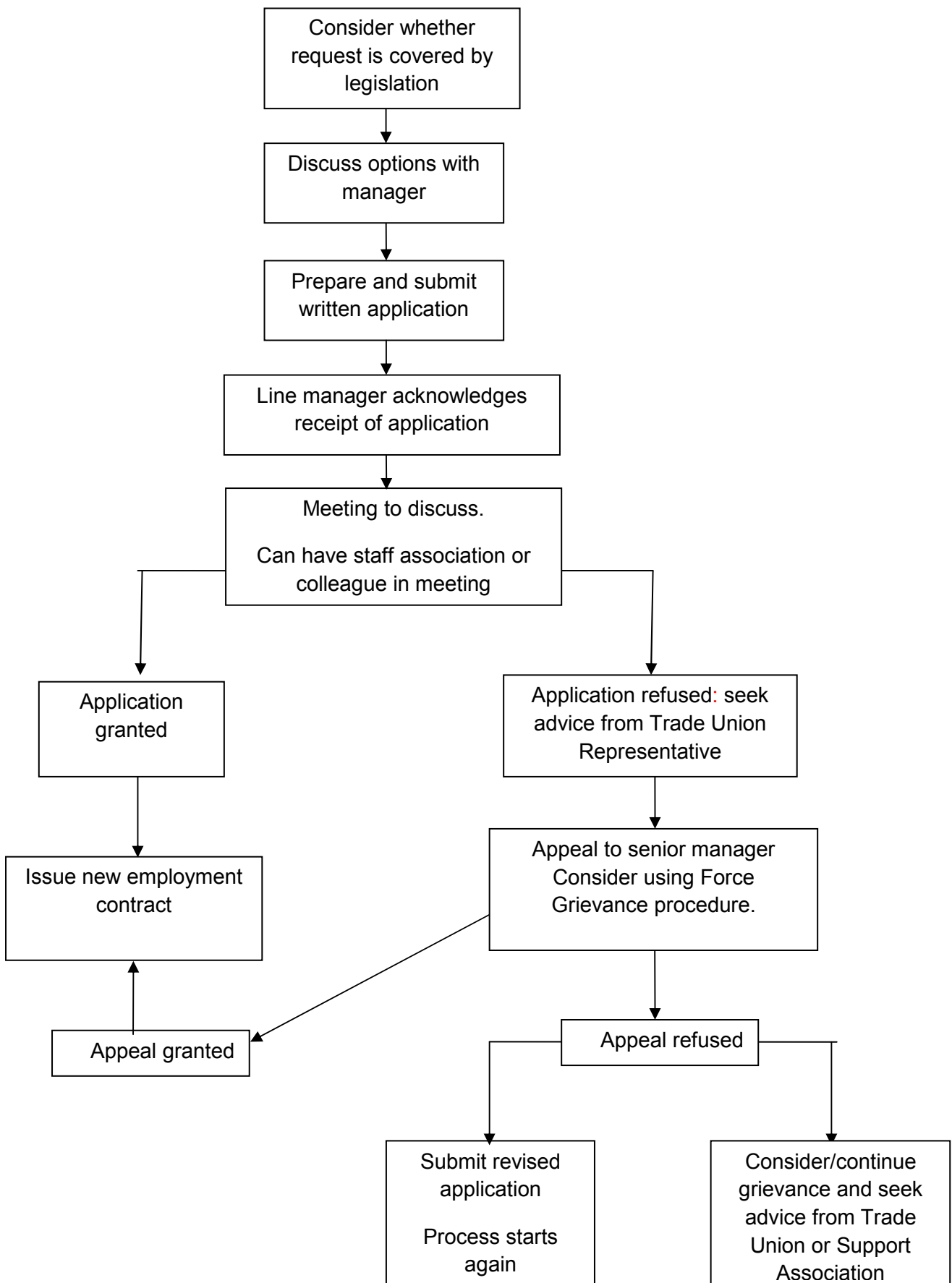
### **9. If your application is unsuccessful**

- Ask for the refusal to be confirmed in writing with full reasons
- Seek further advice from your staff association/trade union representative
- Remember you can always make an amended request

### **10. Potential legal remedy**

- In some circumstances a refusal of particular working hours or arrangements could amount to unlawful indirect discrimination.

**Application process – Police Staff**



## Guidance for Police Officers

Police officers of any rank may make a request to work flexibly. Many of those who work flexibly do so to accommodate childcare or other caring commitments. Requests for flexible working may however be made for any reason.

We have a woman Superintendent who takes 5 weeks unpaid leave each year over the school holidays so that she can be with her children. The other Superintendents on her division were consulted because it reduces their ability to have holidays when the children are off, but this was less important to them as their children are all older”.

The Flexible Working Regulations 2002 do not apply to police officers. Police officers are able to request a change in their working pattern at any time. There is no limit to the number of times a police officer may request flexible working. There is no minimum number of hours which a part-time officer must work. There is no requirement for an officer to reduce hours from full time in order to work flexibly.

A sergeant on a Safer Neighbourhood team has reduced her working hours to 30 hours per week but remains available for 75% of the shift pattern of the team. She occasionally works longer hours to make up the deficit. This enables her to catch up on administrative tasks without interruption to the core role. Working a mixture of days and late shifts enables her to share the school and pre-school run.

Her Line manager comments that “Flexible working is successful in this case because it balances the needs of the individual with the needs of the organisation. She is very flexible and if a need arises for her to change a work free day to meet an operational requirement then she will do this. She has a great work ethic and ensures that she plans her work so that flexible working does not impact on the performance of the team or her supervisory responsibilities”.

“I am a Child Protection officer and liable to be called out to deal with emergencies. My partner is a PC working shifts. If I am needed when he is working nights, the Force allow him to come home to look after our 4 year old. We couldn’t get childcare at night at short notice, so this allows us both to do the job we enjoy”.

A decision as to whether an officer can reduce their hours or work flexibly is a balance between the personal requirements of the officer and the operational needs of the Force.

Officers should be clear about their requirements regarding hours; for example, when childcare is not otherwise available. They should distinguish the hours that are essential rather than just desirable. If necessary, this will provide the basis for discussion with the Force about matching their needs with the Force's needs.

The Force should not restrict consideration of the officer's request to the officer's current role only. In the event that the request cannot be agreed in the officer's current role, the force should consider whether the request can be agreed in another role which is suitable for the officer.

Police officers who work reduced hours or flexibly remain subject to the requirements of Police Regulations and Determinations 2003 (as amended). Exigencies of duty may require police officers to be directed to work beyond their rostered duties, to re-roster their rest days or to work on their free days. They can be recalled to duty at any time.

A part-time officer who joined the force as a full time officer has the right to return to full time hours within a maximum four month period. However, they may be asked to change posts in order to do so. Those who joined part-time do not have the same entitlement to revert to full-time hours, but an application to do so should be considered by the force.

The considerations relevant to an application by a police officer are different to those of a police staff member and whilst officers must use the form used by their force, the form at Appendix G sets out the minimum requirements.

## **Unlawful Treatment**

In some circumstances a refusal to allow an officer to work part time or flexibly could give rise to a claim of unlawful indirect discrimination; for example, a requirement to work particular hours could disadvantage women as more women than men have primary responsibility for childcare. Indirect discrimination cases turn on the question of whether the force's reasons for refusing the request are justifiable. This means assessing whether the force has shown that the refusal is a proportionate means of achieving a legitimate operational aim.

Claims for discrimination must be lodged within three months less one day of the date of the discrimination. In flexible working cases this usually means the date of the refusal. Officers should seek prompt advice from their staff association if they believe that they may have a claim.

Officers working part-time are entitled by law not to be treated less favourably than their full-time colleagues.

## **Checklist: How to Make a Request for Flexible Working**

### **Prepare your Application**

- Discuss potential for flexible working with your manager
- Consider any impact on your pay, pension, leave etc.
- Read the force's flexible working policy to establish how to use the procedure

### **Identify your needs**

- What are your reasons for wanting to work flexibly?
- What other support is available to you?
- Do you want the hours or the role?

### **Consider the Force's needs**

- Are you in a role that requires you to be on duty/available at certain times?
- When and where does the Force need officers on duty?
- How would you be managed and/or how you would manage others?

### **Be prepared to compromise**

- Are you prepared to change roles and/or location? (Police Officers/some Staff)
- Can you alter the hours to better meet the Force needs?
- Can you get additional support from your partner or others?

### **Make a written request**

- Make your request well in advance of when you wish it to start
- Clearly set out your current and proposed working arrangements
- Emphasise the advantages to you and any to the force

### **Request a meeting to discuss your application**

- Take your staff association/trade union representative with you
- Listen to any concerns raised
- Address these if you can or seek time to consider the issues if you need to

### **Balancing the needs of the Force with your needs**

- You need to recognise and try to meet the Force operational/ business needs
- The Force needs to recognise and try to meet your work life balance needs
- Co-operation and negotiation are the keys to getting the right balance

### **If your application is successful**

- Make sure your roster identifies your free time and rest days
- Raise any problems which arise as soon as possible
- Make sure the arrangements are reviewed every 12 months

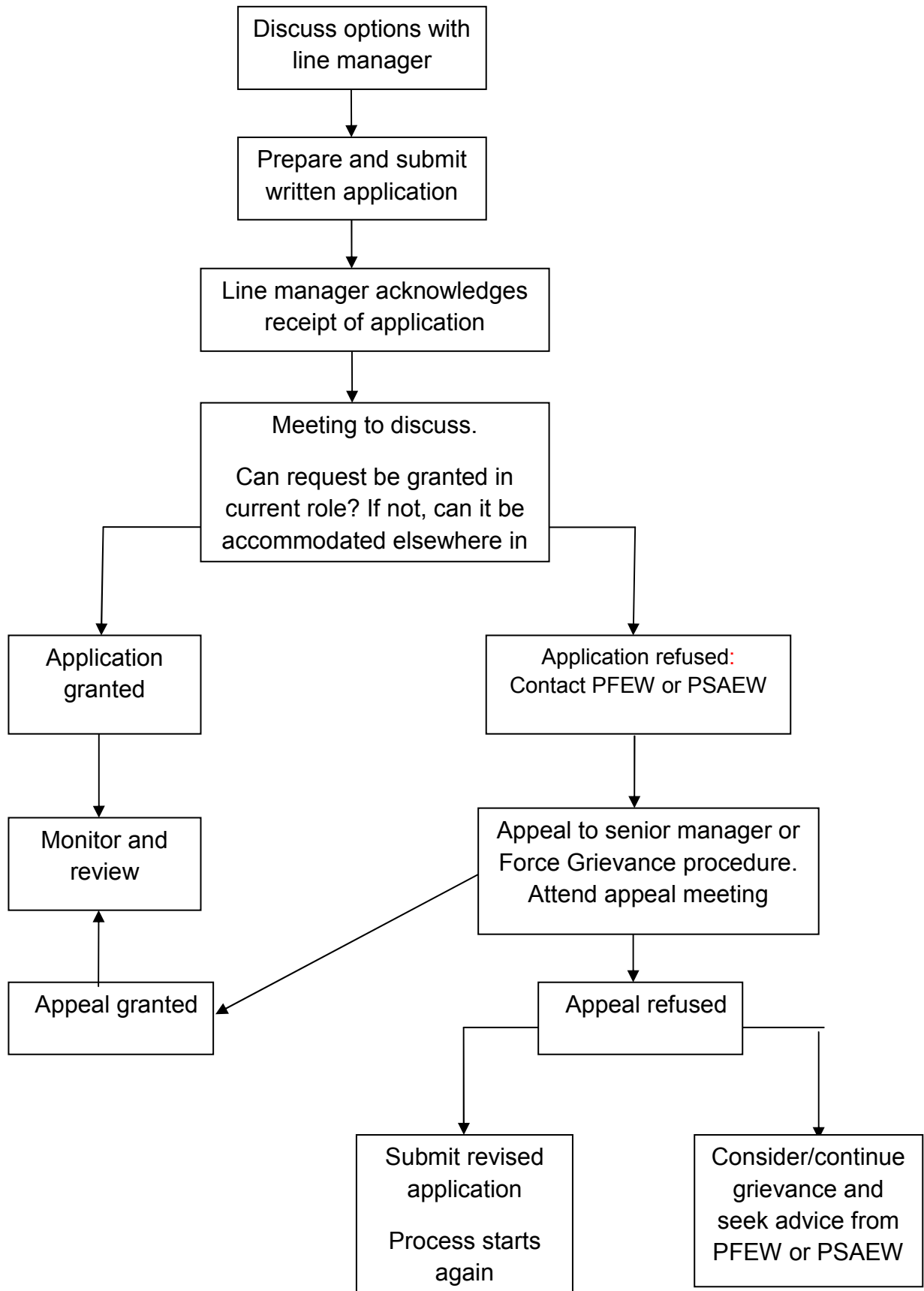
### **If your application is unsuccessful**

- Ask for the refusal to be confirmed in writing with full reasons
- Seek further advice from your staff association/trade union representative
- Remember you can always make an amended request

### **Potential legal remedy**

- In some circumstances a refusal of particular working hours or arrangements could amount to unlawful indirect discrimination.

## Application process – Police Officers



# **FLEXIBLE WORKING**

## **IN THE POLICE SERVICE**

### **Appendices**



**ASSOCIATION OF  
CHIEF POLICE OFFICERS**





**Types of Flexible Working**

All police officers and staff can work reduced hours and/or flexibly. Full time officers from Federated ranks, (i.e. Constables, Sergeants, Inspectors and Chief Inspectors) have a 40 hour working week which can be reduced with the agreement of the Force. Full time officers of the ranks of Superintendent and above have no defined working hours, but can reduce their time and pay on an annual basis. Full time and part time police staff have working hours set out in their contract of employment.

The following are examples of alternative working arrangements that have benefited officers, staff and Forces in England and Wales. They are not exclusive. Forces are encouraged to negotiate arrangements that work for them and for their officers and staff. Sometimes there may need to be a creative approach in order to meet Force and individuals' needs.

**Police officers and Police Staff can work the following:**

<b>Part time working</b>	Fewer hours than for the standard working week
<b>Job Sharing</b>	One full time job divided between 2 or more workers
<b>Term Time Working</b>	Set periods away from work in school holidays
<b>Variable Shift Arrangements including:</b>	
<b>Compressed Hours</b>	Shorter week of longer days
<b>Staggered hours</b>	Normal hours with a number of starting and ending times

**Police Staff can also work the following:**

<b>Flexi time</b>	Flexible hours with fixed core times
<b>Zero hours</b>	Working arranged as required from a bank of staff on standby

Part time work is an arrangement whereby an officer or member of police staff agrees a role on fewer than their normal hours of work.

Police officers and staff can be recruited as part time workers. Police officers who were recruited as full time officers and who have reduced their hours have the right under Police Regulations and Determinations to return to full time work within 4 months of making a request to do so. This facility is not available to police staff who are contracted employees, or to police officers who were recruited on reduced hours.

There is no restriction on how few hours per week an officer can work. Neither does an officer have to drop from 40 hours to work flexibly.

Terms and conditions of service for part-time officers, as for full-time officers, are set out in the Police Regulations and Determinations 2003. Part time police officers can still be required to stay on after their agreed hours to meet pressing policing demands in the same way as full time officers.

Part time Constables and Sergeants do not get enhanced overtime pay until they have worked over 40 hours (i.e. full time hours) in one week and over 8 hours on that day. Part time Inspectors and Chief Inspectors are paid their hourly rate up to 40 hours in a week; thereafter they do not get additional pay.

Under the Part Time Workers (Prevention of Less favourable Treatment) Regulations 2000 (as amended), part-time workers must receive the same terms and conditions and treatment as full-time workers (on a pro-rata basis where appropriate) unless it is possible for less favourable treatment to be objectively justified. The legislation applies to police officers and police staff.

## **Job-Sharing**

Job-sharing is a form of part-time working where two or more workers share the duties of a full-time post, although each job-sharer has an individual part time agreement (in the case of police officers) or contract (in the case of police staff).

It can be particularly useful to implement job sharing in roles where there is a requirement for 24-hour cover or in circumstances where the role would benefit from longer than normal full-time hours per week.

Job share partners should be sought through the normal selection procedures.

If one officer or member of staff leaves a job share arrangement the Force should make every effort to fill the remaining vacant hours. It may be an appropriate opportunity to review the needs of the Force. The current job sharer(s) may appreciate the opportunity to change their hours. However, if there are objective justifiable reasons that require that the role or post is filled on a full time basis and it is not possible to fill the vacancy by advertising it in the usual fashion, it may be necessary to fill the post with a full time person and seek another reduced hours vacancy elsewhere in the Force for the remaining job share partner.

In the case of police officers they may be moved to another role on a reduced hour's basis; in the case of police staff they may be offered suitable alternative work in the Force, if available; but if there is no suitable alternative work, their contract may have to be terminated.

Overtime entitlement for officers who work on a job-share basis is calculated by reference to each individual's hours and not by considering the two officers' hours combined. Enhanced pay for additional working is therefore only available where one of the job-share officers has worked more than 40 hours per week (and not where their combined hours exceed 40 in that week).

Two sergeants have worked in a job share arrangement for 5 years covering the Safer Neighbourhood Team roles. They worked 26 and 24 hours respectively with the sectors absorbing the extra hours.

"Within each role we have effectively shared the job but each has led on separate issues so that we don't duplicate work and we ensure that we have an effective hand over system in place so that each knows what the other is working on and thus we can fully support each other. Even personnel issues can be managed between us, we just agree roles at the outset. It's really important that our team have consistent leadership and the same standards from both of us. We have always made people aware that although we are two people, we are one post and sometimes that can mean managing other people's expectations, especially in terms of abstractions. We both cover PACE and A/Insp roles too and for annual leave and commitments, we are often seen as two people.

### **Fixed Shifts**

Rather than working rotating shifts (early, late, and nights), an officer or member of staff may elect to work the same shifts. This may be permanent rosters of the same duty, with a rotating rest day pattern (where the day off each week is different), or permanent rosters of the same shift where the rest days stay the same (e.g. every Monday and Tuesday off). Both full-time and part-time officers can work fixed shifts.

Fixed shift working can be particularly useful for those with fixed childcare commitments. It should not be assumed that all officers will automatically seek to work days. Although some will, many officers will derive home life benefits from working late shifts, nights or at weekends. Officers or staff who shares parenting may be able to co-ordinate their childcare arrangements and older people could get physical and/or mental health benefits from staying on one shift pattern.

A woman response officer who is a single parent works permanent nights in our Unit. She comes home from work and takes her child to school in the morning; then sleeps during the day whilst her child is at school. She picks her child up and they spend some quality time together before the child goes to her grandparent's to sleep. She has no childcare costs.

Fixed shifts are particularly useful when managing an area with known policing demands.

## Parental Leave

Although not strictly a form of flexible working, parental leave provides officers and staff with an opportunity to take a period of unpaid leave to undertake childcare. It can be used as part of a flexible working arrangement.

Officers (with at least 1 year's service) and staff who have a child under 5 or a child with a disability under 18 are entitled to take unpaid parental leave to care for the child. Officers are entitled to 13 weeks in total in respect of any individual child<sup>4</sup>. They are entitled to 18 weeks in the event that any child is disabled. From the 8<sup>th</sup> March 2013 police staff are entitled to 18 weeks leave in respect of a child under 5 or a child under 18. If the Force employs both parents, each is entitled to parental leave.

For officers, the Police Regulations and Determinations 2003 (Annex S) provide for arrangements for taking of parental leave and the timing of that leave is to be agreed between the officer and the Chief Constable. Whilst 'agreement' is subject to interpretation and the exigencies of duty, the officer should not be given less favourable terms than as provided under the Maternity and Parental Leave Regulations 1999.

Leave taken as parental leave will be reckonable for incremental pay and leave purposes and for inclusion in any probationary service.

An officer is entitled to buy back, for pension purposes, reckonable service in respect of any period taken as parental leave.

"I have a woman officer who works 4 days a week in term time and then in school holidays this drops to 2 days a week. She takes the time as unpaid parental leave. It provides the unit with resilience when it's needed and assists the officer with childcare arrangements/costs in school holidays".

There are significant differences between the entitlement to parental leave for officers under Police Regulations and staff under employment law. Subject to agreement, police officers can take parental leave in days and there is no maximum period of parental leave that can be taken in a year e.g. the 13 weeks can be taken in one period in one year or spread out over the period up to the child's 5<sup>th</sup> birthday. Police staff can take parental leave in blocks of weeks to a maximum of 4 weeks in any one year.

## Term-time Working/Annualised Hours

Police officers cannot "bank" additional hours worked over a year because of the weekly payment terms of working additional hours/overtime hours under Police Regulations. With agreement, officers could use unpaid leave or parental leave to coincide with the periods of annual leave in order to facilitate term-time working.

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<sup>4</sup> A change to police regulations is required to bring officer entitlement in line with police staff. This is being progressed.

“I work term time and work 35 weeks out of 52. This means that the 17 weeks I am away covers most (but not all) of the school holidays. “

“When I first returned to work I worked from 0930 to 1430 hours, which meant I could do the school run, sprint to work, do my 5 hours and sprint back in time for collecting from school. It worked (just) but was kind of manic, with every minute accounted for. I wouldn't want to do it again. When the children were older, I increased my hours to 8 a day, from 0700 to 1500 but still sticking to the 35 weeks. Flexible working has been very good for me and my family as it allows me to have a bit of both worlds.”

“A woman Sergeant works term time in our Force. She had 2 weeks annual leave in August and December adds 2 weeks unpaid leave onto the end of each period. This means that she gets half pay in August and December, but she does not lose any other pay or benefits as she is working full time for the rest of the year”.

Police staff do not come under the requirements of Police Regulations and can bank leave and annualise their hours, taking blocks of leave and equalising their monthly pay over the year in accordance with their contract of employment.

“A male officer required term time working because of his family commitments. He worked as the officer manager/risk assessor in the Domestic Abuse Team supported by a University student who worked academic holiday time only, in an administrative capacity. It 'knitted in' fairly well. He has just moved roles to that of 'case builder' within our Criminal Justice Unit on the same arrangement”.

This arrangement may be particularly suitable for policing areas where the demand for officers is seasonal.

### **Variable Shift Arrangements/Compressed Hours/Staggered Hours**

Variable Shift Arrangements (VSA's) are formal local shift arrangements for police officers. They allow for shifts to be worked that are longer or shorter than the normal 8 hours over a defined period. For example, the 40-hour working week can be compressed into a period of less than 5 days and the additional time accrued provides additional time off for officers. This can benefit those who would benefit from additional days at home.

There is no fixed time period for officers over which a VSA can be worked. This means that additional hours worked may be accrued and taken off when convenient to both the officer and the force.

The arrangements for VSA's are set out in the determination to Regulation 22 of the Police Regulations. There are different arrangements for annual leave, which is calculated on an hourly basis for those on VSA's.

“An officer who is a single parent dropped her hours from 40 hours a week, to 30 hours a week. Her shifts were lengthened to ten hours and every ten weeks she works an extra night shift to make up her hours”.

“Work has actually been very good to me and understands if there is an issue with my hours. They have allowed me to change my shifts once as the first flexible working didn't work well for me. This second flexible working is really good for me and allows me to look after my little girl.

### **Flexi-time/Banking Hours**

Flexi-time working is usually part of a formal agreement for office-based workers who “clock in and out” when they attend work. Additional hours worked are ‘banked’ and can be taken off at a later time. The rules of Flexi Time schemes vary but there are usually restrictions on the number of hours that a worker can be over or short each month.

Police Regulations do not permit police officers to work flexi-time because of the provisions in relation to overtime.

### **Zero Hours Working**

Under a zero-hours contract an employer does not guarantee the worker a fixed number of hours per week. The worker agrees to be on-call for designated periods, but does not receive pay unless they are required to work.

### **Home working**

Officers and staff may be able to work from home on an occasional basis, for example for writing reports; or on a semi-permanent basis, for example where the role performed involves a degree of autonomy.

This form of flexible working can be particularly relevant for those with a disability, for example where travel to work is difficult for the worker. Depending on the circumstances of the individual case, an agreement to allow home working could amount to a reasonable adjustment under the disability provisions of the Equality Act 2010. Home working can be agreed either temporarily or permanently and can apply to either all or part of the working week.

Home working is not suitable for the purposes of providing childcare or other caring commitments.

Managers should also be aware that authorising working from home does not discharge the duty to provide a safety working environment under health and safety legislation.

### **Right to Request Flexible Working – Police Staff only**

Only police staff have the right to request flexible working under the Flexible Working Regulations 2002 (as amended). Staff who have parental responsibility for a child aged 17 or under, or a disabled child aged under 18, or a person who receives a disability benefit paid by the benefits office, have the right to apply to work flexibly once a year. The force has a duty to consider their request seriously and a request may only be refused for sound business reasons. There are strict time limits for consideration of an application and the process should be completed within 3 months.

The Flexible Working Regulations set out a number of statutory reasons for the refusal of an application for flexible working. These reasons apply only to police staff applications; however, they give some guidance as to the considerations that could apply to all applications for flexible working. The reasons are:

- the burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to re-organise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality or performance
- insufficiency of work during periods the employee proposes to work
- planned structural changes
- any other ground the Secretary of State may specify by regulations (there are currently no other grounds)

There is no facility under the Flexible Working Regulations to make a legal challenge against the refusal of a request for flexible working, other than to challenge the Force's failure to follow the statutory procedure. In any event, the statutory procedure applies only to police staff and police officers have no claim at all under the provisions. However, a refusal of flexible working could give rise to a separate legal challenge of discrimination from an officer or a member of staff.

Police staff are employed under a contract of employment to perform a particular job. They are subject to all employment laws. Any change to the number of hours worked is a **permanent** change to their contract and police staff have no right to return to full time work. However, where mutually agreed, a change as to when the hours are worked can be made without changing the terms of the contract.

### **Police Regulations and Determinations 2003 - Police Officers only**

Police Regulations and Determinations 2003 permit police officers to work reduced hours (less than 40 hours a week) and to work flexible arrangements. There is no limit on the number of times within a year that a police officer may request alternative working arrangements, nor is the facility restricted to officers with dependents, caring responsibilities for children or care of adults of certain ages.

Most importantly, the Force is not restricted to considering an officer's request to alter their working hours in their current role, but should also consider it in the light of the wider policing needs across the Force.

Best practice would be to treat applications for flexible working from both police staff and police officers under the same procedure. This would mean having an unrestricted application process considered within the statutory time framework.

### **Restrictions on the Number of Hours**

There should be no restrictions on the number of hours required to be worked in a week. Police Regulations do not set a minimum number of hours that must be worked in a week. There is no requirement to drop from full time hours to get flexible working.

Flexible working should not be restricted to particular shift patterns or policing areas.

### **Restrictions on the Number of Part Time Officers or Staff**

A refusal of a request for flexible working because of a "quota" on the number of officers or staff who work part time in the Force, or in particular areas of the Force or in particular ranks could constitute unlawful direct discrimination. Each application for reduced or alternative working should be considered on its own merits and balanced against the policing requirements of the Force.

A Force needs to identify the requirement for policing hours in each job, unit or policing area. A rigid adherence to "establishment figures" in an area can work against the provision of alternative working patterns. Where the demands are increasing or excessive, it may be appropriate to reconsider the policing requirements in the area and provide for additional full or part time officers to deliver effective policing in the area.

As part of workforce planning, Forces should identify their policing needs in relation to the policing demands of their area or department. Officers or staff working reduced hours should not be expected to undertake workloads above their allocated hours. Forces should identify their operational needs and decide whether another officer or member of staff is required on reduced hours to fill the gap. It may be that a combination of workers on reduced hours is more or less than 1 full time post, but this should reflect Service needs. Any workforce gaps should be filled as quickly as possible.

Accounting methods should reflect the hours of the people in post not a headcount - so 2 officers working 50% hours = 1 full time equivalent.

A police officer who reduces their hours can return to full time working within 4 months, or within 2 months, if there is a suitable vacancy. This may be to an alternative role if a full time role cannot be accommodated within the officer's current department.



Forces should recognise that natural wastage will account for several leavers over a 4 month period, so this should not cause difficulties in planning or accounting. Whilst some officers may want to return to full time, others will want to reduce their hours. Forces should establish the proportion of their workforce who are working reduced hours (nationally 6% of police officers work part time hours) and plan accordingly.

A department is staffed with 6 full time officers who provide 240 policing hours. If two officers reduce their hours by 50% the total hours then provided by the 6 officers is reduced to 200 hours. If the policing demand on the department has not reduced and the same level of service is expected then an additional officer working full time or 2 or more working reduced hours will need to be appointed to provide the required 240 policing hours.

## Conditions of Service

### Police Regulations – the impact of flexible working

#### **Police Regulations: flexible working for Superintendents and above**

Full time officers of the ranks of Superintendent and above have no defined working hours, but can reduce their time at work and pay on an annual basis.

#### **Police Regulations: flexible working for Federated ranks**

##### **Hours**

Part-time officers' hours are subject to annual review. However, the force cannot change the number of hours the officer has agreed or require the officer to revert to full time working without their agreement. Similarly, a full-time police officer cannot be required to change to part-time hours without their agreement.

##### **Pay and Allowances**

Part-time officers are paid hourly such that their total pay equates pro-rata to the full-time equivalent.

Most allowances are paid pro rata to the full time entitlement. Allowances which relate to expenses which are not reduced (e.g. dog handler's allowances) are paid in full. However, housing payments for part-time officers are paid pro-rata.

##### **Overtime**

Constables and sergeants are entitled to enhanced pay for overtime, free day, rest day and public holiday working in some circumstances.

Part-time constables and sergeants are not entitled to enhanced pay for overtime working until they have worked the equivalent of full-time hours in a particular week and on the day in question. Part time Inspectors and Chief Inspectors are paid their hourly rate up to 40 hours in a week; thereafter they do not get additional pay.

##### **Annual leave**

The number of days' annual leave entitlement for part-time officers is the same as full-time officers but pay for each day's leave is pro-rata.

##### **Public Holidays**

Police officers are entitled to paid leave on each public holiday. For part time officers the pay for leave on public holidays is pro rata to their reduction from 40 hours. Because police officers can be rostered for duty or recalled to duty on a public holiday their entitlement to public holiday leave should not be apportioned as hours at the beginning of the year. To ensure that officers receive the appropriate pay for that day, each public holiday should be remunerated in the week it occurs.

##### **Rest days and free days**

Like full-time officers, part-time police officers are entitled to two rest days per week. Rest days should be distinguished from free days in the roster. Free days are days which under the individual part-time arrangement are non-working days.

Rest day working for constables and sergeants is paid at the same rest day rates as full time officers. Free day working for constables and sergeants is paid at rest day rates,

unless the duty in question could only have been performed by that officer, such as attending court. In that case pay is not enhanced or paid at overtime rates unless the officer has worked the equivalent of full-time hours in that particular week and on the day in question.

### **Details of Remuneration**

The Police Federation publish a leaflet explaining the remuneration implications for officers should they decide to reduce their hours of duty from 40 hours per week and this is available from your local Federation Office.

### **Pensions**

Part-time officers are entitled to the same access to benefits under the Police Pension Scheme as full time officers, but the benefit received will be pro-rata. Pension contributions are made on all hours worked, agreed hours and any additional hours worked, up to 40 in a week.

### **Training and Promotion**

Part-time officers should have the same opportunities for promotion, training and appraisals as full-time officers. Some forces offer training courses on a part-time basis, or offer assistance with childcare costs for part-time officers attending full-time courses. Officers on part-time hours or working flexibly are entitled to apply for posts in the same way as full-time officers. If appointed, working hours/arrangements should then be renegotiated in the usual way.

Police officers, as crown agents do not have a contract of employment. They can be recruited full time (40 hours) or on reduced hours. Whatever their hours, they are employed under **Police Regulations and Determinations 2003 (as amended)** to perform the role of police officer as required and as directed. Police Regulations provide that police officers who were recruited as full time officers (40 hours a week) but who successfully applied to work reduced hours may return to full time working within 4 months. Officers do not have an automatic right to return to full time in the job they hold on a reduced hour's basis, but to a full time post identified by the Force in the usual way. Officers who joined on a part time basis **do not** have the same automatic right to change to full time working. Their request to undertake full time duties should be considered by the Force in the usual way.

"I have been a special constable for almost two years and would love to be a regular officer, but the shift patterns on both day and night are 7-7 for response shifts. As I understand it, you have to do two years as a response officer before you can work with the Community Beat Officers, who work a different shift pattern that is more suited to single mums. Because of this, I am looking to move and work for a force that is more in tune with the needs of single mums".

Police officers and staff working reduced hours receive pro-rata pay, allowances, pension and leave. They should have access to promotion, training, appraisals and opportunities for overtime in the same way as full time officers. Applications for posts should not be restricted. Part time officers and those on flexible working arrangements should be interviewed in the same way as full time officers without reference to their working hours and the best candidate appointed. Consideration of hours should come after appointment.

**An Overview of the Law**

Although there are significant benefits to the Police Service in adopting a pro-active approach to the provision of flexible working arrangements, in some circumstances individuals may have a legal claim for flexible working. The right to request flexible working under the Flexible Working Regulations 2002 (as amended) applies only to police staff, but staff and officers also come under the Equality Act 2010 and may, in some circumstances, be able to make a claim of unlawful discrimination if they are refused flexible working.

Police officers are “Officers of the Crown” under the law, not “employees”. This means that employment legislation does not automatically cover police officers in the same way that it covers police staff. Police officers work under Police Regulations and Determinations 2003 (as amended).

Relevant legislation under which officers and staff could make a complaint to an Employment Tribunal in respect of flexible working is set out

**Police officers can take action for failure to properly implement**

Police Regulations and Determinations 2003 (as amended)

**Police officers and police staff can take action under the following statutes:**

- Equality Act 2010
- Health and Safety at Work Act 1974 and Police (Health and Safety) Act 1997
- Maternity and Parental Leave Regulations 1999
- Part Time Worker (Prevention of Less Favourable Treatment) Regulations 2000
- Working Time Regulations 1998

**Police staff can also take action under the following employment statutes:**

- Employment Rights Act 1996
- Employment Relations Act 1999
- Flexible Working Regulations 2002 (as amended)
- Fixed Term Employees (Prevention of Less Favourable Treatment) Regs 2002 (as amended)
- National Minimum Wage Act 1998
- Paternity and Adoption Leave Regulations 2002

This list is not exhaustive

## Flexible Working Regulations 2002

The Flexible Working Regulations 2002 (which does not apply to police officers) gives police staff the statutory right to ask for flexible working if they:

- have or expect to have parental responsibility of a child aged under 17;
- have or expect to have parental responsibility of a disabled child under 18 who receives a benefit paid by the benefits office;
- are the parent/guardian/special guardian/foster parent/private foster carer or as the holder of a residence order or the spouse, partner or civil partner of one of these and are applying to care for the child; or
- are a carer who cares, or expects to be caring, for an adult who is a spouse, partner, civil partner or relative; or who although not related to you, lives at the same address as you

Under the law the Force must seriously consider an application, and only reject it if there are good business reasons for doing so.

A Force can refuse a request for flexible working under the statutory regulations only on grounds set out in Regulation 80G (b) of the Flexible Working Regulations, namely:

- the burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to re-organise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality or performance
- insufficiency of work during periods the employee proposes to work
- planned structural changes
- other grounds as may be set out in regulations. (At the present time there are no other grounds).

There is no legal challenge to the refusal of a request for flexible working, other than the employer's failure to follow the set procedure. However a refusal may constitute unlawful discrimination.

There are strict time limits for consideration of an application. The Force may agree the new arrangements without a meeting with the employee, if so they need to notify the employee within 28 days. If a meeting is required it should be held within 28 days of the application being made. The Force must notify the employee of the decision within 14 days of the meeting. The employee has 14 days to appeal against the decision. The appeal meeting should be held within 14 days, and then notification of the final decision should be made within another 14 days.

Police officers are able to work part time and flexibly under Police Regulations and Determinations 2003. There is no limit on the number of times a year a police officer can request alternative working arrangements, nor is the facility restricted to officers with dependents or children. Most importantly, the Force is not restricted to considering the

officer's request to alter their working hours in their current role, but can also consider it in the light of the wider policing needs across the Force.

## **Equality Act 2010**

Police officers and police staff are protected under the Equality Act 2010 from unlawful discrimination because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex and/or sexual orientation. Although unlawful discrimination may occur under any of these grounds, the most usual causes for complaint taken to Employment Tribunal in respect of a refusal of flexible working has been because the treatment was allegedly directly or indirectly discriminatory on the grounds of a person's sex, disability or religious belief.

Direct discrimination under the Equality Act 2010 occurs if an officer or staff member was treated less favourably on one or more of the protected grounds. Direct discrimination cannot be justified unless on grounds of age.

Indirect discrimination occurs if the Force imposes a provision, condition or practice (such as particular working hours), that would put persons of one protected group at a particular disadvantage when compared to another group. In such circumstances the Force must be able to show that the provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

### **Sex discrimination**

Indirect sex discrimination arises because women are less likely than men to be able to comply with a requirement to work full-time or particular hours, as more women than men have primary responsibility for childcare. Where a man is refused flexible working in circumstances in which a request by a woman would have been approved, would amount to direct sex discrimination.

A Police force discriminated against a woman part time officer by insisting she was on call 1 weekend in every 8, despite her child care commitments and the on-call commitments of her husband – a police firearms officer.

### **Disability Discrimination**

Disability discrimination arises when an officer or member of police staff is treated less favourably because of their disability or not provided with a reasonable adjustment. The legislation covers people who have a long term physical or mental impairment that has a substantial, adverse impact on their ability to carry out normal day to day activities. The Act requires Forces to make reasonable adjustments where working arrangements or physical features place a disabled worker or job applicant at a substantial disadvantage to persons who are not disabled. A reasonable adjustment could apply to working hours. The Force must show that any failure to make reasonable adjustments is justifiable.

Providing fixed late shifts for an officer who has arthritis in his hands, the effects of which are worse in the mornings, may be a reasonable adjustment.

### **Religion or belief discrimination**

The Act requires Forces to consider the implications of a person's religion or belief when allocating working hours.

A Police Force recognised that the requirement for a police dog handler to work every Saturday on football duty discriminated against him as a Jewish person who wished to practice his faith by not working on the Sabbath (Saturday). The Force ensured that the officer was not allocated Saturday football match duty but was rostered to work on football matches played on Sundays or other days of the week.

Claims for discrimination must be lodged within three months less one day of the date of the discrimination. In flexible working cases this usually means the date of the refusal. .

### **Health and Safety at Work**

The Health and Safety at Work Act 1974 (as amended) and the Police (Health and Safety) Act 1997 requires Forces to provide a working environment that has due regard to the health, safety and welfare of its officers and staff. Risk assessments must be conducted on all roles, and should include an assessment of the hours and the pattern worked.

In particular circumstances, such as when a person becomes disabled or when a woman is pregnant or a new mother, an individual risk assessment needs to be completed. There may be an identified need to provide additional rest periods or alternative working hours. Similarly, a worker returning to work after a period of extended sickness, or who is returning on recuperative or restricted duties may need an alteration to his or her usual working hours.

## **4. Working Time Regulations**

The Working Time Regulations 1998 provide a minimum level of rights for officers in respect of their working hours. They limit the working hours of officers and staff to no more than an average of 48 a week, calculated over a 17 week period. Workers are entitled to a rest period of 11 uninterrupted hours in each 24 hour period, and to a minimum of 24 uninterrupted hours of rest each week. Every worker is entitled to 4 weeks' paid annual leave. Night workers (defined as someone who works at least 3 hours between 11pm and 6am) should not work more than an average 8 hours in a 24-hour period.

The Working Time Regulations cannot be used to reduce existing provisions contained in Police Regulations and Determinations which are more favourable than those in the Working Time Regulations. An officer is entitled to take advantage of whichever right is, in any particular respect, the more favourable.

### Further reading

In 2004 the Home Office published a study of Police Resource Management and Rostering Arrangements undertaken by Accenture (HOC 68/2004). This can be found on the following link:

[http://tna.europarchive.org/20100419081706/http://www.police.homeoffice.gov.uk/publications/police-reform/HO\\_police\\_rostering2835.pdf?view=Binary](http://tna.europarchive.org/20100419081706/http://www.police.homeoffice.gov.uk/publications/police-reform/HO_police_rostering2835.pdf?view=Binary)

The study found that there are real benefits to be had from better management of shift patterns; more effective resource management within a framework of flexible working options can produce a better work/life balance for individuals, enhancing both recruitment and retention and had the potential to make it easier for forces to manage court attendance, case handling and overtime.

In 2010 the Police Negotiating Board published guidance on developing shift patterns. This can be found on the following link:

[http://www.ome.uk.com/PNB\\_Circulars.aspx](http://www.ome.uk.com/PNB_Circulars.aspx)



**Flexible working application form – Police Officers**

**Notes for completion**

1. Before completing this form you should read the Force's Flexible Working Policy and consider discussing your flexible working option with your line manager.
2. You should submit your request well in advance of the date you wish the new arrangement to start.
3. Please submit the form to [line manager]
4. A meeting will be arranged to discuss your request.

**Notes for Line Manager:**

**You should acknowledge receipt of this application immediately and set a date for a meeting to discuss the application.**

**1. Personal details**

Name .....

Rank and Number .....

Current role .....

Station/department .....

**2. Current working pattern** (set out what shifts/days you work and the number of hours you currently work)

**3. Proposed new working pattern** (attach a suggested rota if appropriate and specify whether there is any proposed reduction in hours)

**4.** If you are seeking a reduction in hours, please indicate whether you anticipate being able to continue to perform all your current duties. If not, state which aspects of your role you would not be able to perform.

**5.** Reason for application if relevant or any other information in support of your application.

Signed .....

Dated .....

The right to request flexible working

Form FW(A): Flexible working application form

**Note to the employee**

You can use this form to make an application to work flexibly under the right provided in law to help eligible employees care for their children or for an adult. Before completing this form, read the guidance on [the right to request flexible working](#) on the Gov.uk website, and check that you are eligible to make a request.

You should note that under the right it may take up to 14 weeks to consider a request before it can be implemented and possibly longer where difficulties arise. You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect.

It will help your employer to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be valid. When completing sections 3 and 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues.

Once you have completed the form, you should immediately forward it to your employer (you might want to keep a copy for your own records). Your employer will then have 28 days after the day your application is received in which to arrange a meeting with you to discuss your request. If the request is granted, this will normally be a permanent change to your terms and conditions unless otherwise agreed.

**Note to the employer**

This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications seriously. You have 28 days after the day you received this application in which to either agree to the request or arrange a meeting with your employee to discuss their request.

You should confirm receipt of this application using the attached confirmation slip.

Forms accompanying the guidance have been provided for you to respond to this application.

## 1. Personal Details

Name: Staff or payroll number:

Manager: National Insurance No:

### To the employer

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided under section 80F of the Employment Rights Act 1996. I confirm I meet each of the eligibility criteria as follows:

#### Either

- I have responsibility for the upbringing of either:
  - [ ] a child under 17; or
  - [ ] a disabled child under 18.
- I am:
  - The mother, father, adopter, guardian, special guardian or foster parent of the child; or
  - Married to, or the partner or civil partner of, the child's mother, father, adopter, guardian, special guardian or foster parent.
- I am making this request to help me care for the child.

#### Or

- I am, or expect to be, caring for an adult.
- I am:
  - The spouse, partner, civil partner or relative of the adult in need of care; or
  - Not the spouse, partner, civil partner or relative of that adult, but live at the same address.
- I am making this request to help me care for the adult in need of care.

- I have worked continuously as an employee of the company for the last 26 weeks.
- I have not made a request to work flexibly under this right during the past 12 months.

Date of any previous request to work flexibly under this right:

If you are not sure whether you meet any of the criteria, information can be found in the Gov.UK guidance.

If you are unable to tick all of the relevant boxes then you do not qualify to make a request to work flexibly under the statutory procedure. This does not mean that your request may not be considered, but you will have to explore this separately with your employer. Many employers offer flexible working to their staff as best practice.

**2a. Describe your current working pattern (days/hours/times worked):**

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

**2c. I would like this working pattern to commence from:**

Date:

**3. Impact of the new working pattern**

I think this change in my working pattern will affect my employer and colleagues as follows:

**4. Accommodating the new working pattern**

I think the effect on my employer and colleagues can be dealt with as follows:

Name:

Date:

**NOW PASS THIS APPLICATION TO YOUR EMPLOYER**

✂ -----

Cut this slip off and return it to your employee in order to confirm your receipt of their application

**Employer's Confirmation of Receipt** (to be completed and returned to employee)

Dear:

I confirm that I received your request to change your work pattern on:

Date:

I shall be arranging a meeting to discuss your application within 28 days following this date. In the meantime, you might want to consider whether you would like a colleague to accompany you to the meeting.

From:

END