RESEARCH COUNCIL FLEXIBLE WORKING POLICY

Guidance

This document provides additional guidance for managers, employees and HR in the handling of flexible working issues. It includes the Research Council's Flexible Working Policy and Procedure which is contractual. The additional guidance which is shaded is not intended to be legally binding and does not form part of the Research Council's Flexible Working Policy and Procedure.

Content

Policy statement
1. Principles
2. Flexible Working Procedure
3. Appeal Process
4. Appeal Outcomes
5. Employee's right to be accompanied
6. Extension of Timescales
7. Policy Review
8. Amendment History

Policy statement

The Research Council endeavours to support employees that request changes to their working patterns due to responsibilities outside work. The Research Council encourages managers to consider a more flexible approach to working patterns when operational requirements allow. This Flexible Working Policy and Procedure ("Flexible Working Policy") sets out how the Research Council will approach requests that are made.

The Flexible Working Policy has been agreed with the Trade Union Side and complies with statutory legislation as well as ACAS best practice.

The Flexible Working Policy applies to all employees. This includes those employed on permanent or temporary contracts, and for the avoidance of doubt, does not include visiting workers, students or those workers provided by a third party agency.

The UK Shared Business Services Ltd (SBS) provides HR services across the Research Council. However some employees are deployed at establishments/facilities/ships that do not access services from SBS. In these cases reference to the SBS or System will not apply and employees should refer to the Research Council HR team for assistance.

Whether a worker is deemed to be a worker or employee is not always clear under employment legislation. In cases where managers or individuals have any doubt as to whether the Flexible Working Policy should apply, advice should be sought from the Research Council HR team.

Flexible working is separate from any flexi working hours (FWH) scheme.

1. Principles

1.1 The Research Council values all employees and as a demonstration of this all employees are eligible to make a request for flexible working. This policy goes beyond statutory legislative obligations.

1.2 Flexible working incorporates a wide variety of working practices. Flexible working can be any working pattern other than the normal working pattern of an establishment. Examples of flexible working patterns are attached as an appendix to the Flexible Working Application form, and include part time working, job sharing, annualised hours, home working and career breaks.

1.3 Employees must follow this procedure when making an application.

1.4 Any employee returning from maternity/adoptive/parental/maternity support leave has the right to make a request for flexible working in order that a change may be implemented from the time that they return. In these circumstances, the application

must be submitted at least 14 weeks before the scheduled return to work date to allow time for processing.

1.5 All requests will be considered in light of the employee's needs balanced against the operational requirements of their organisation.

1.6 Requests are subject to the line manager and Research Council HR approval.

1.7 If mutually agreed that a trial period is appropriate, the procedure and timetable (as set out in the procedure below) for dealing with a flexible working request shall be suspended. Both parties agree that the timetable will be re-activated with a view to making a decision on the flexible working application at the end of the trial period, unless mutually agreed that the decision be made at an earlier date. Once the decision is confirmed, it will become a contractual change to the employee's terms and conditions of employment.

Where a trial period is agreed between the parties, the employee must also provide agreement to the suspension of the statutory timetable for dealing with a flexible request in writing. The employee must be provided with details of the length of the trial period, the review dates and/or the success criteria. What happens at the end of the trial period should also be made clear.

1.8 Where appropriate, and at the discretion of the line manager and the employee, a review period may be set for any changes to working patterns to ensure the new arrangements continue to meet employee and business needs.

1.9 Only one request for flexible working may be made in any 12 month period unless exceptional circumstances cause an employee to find themselves subject to substantial change in their home life prior to the 12 month limit.

1.10 Throughout all stages of the procedure the Research Council will endeavour to accommodate any reasonable adjustments or other special requirements needed by the employee.

This flexible working policy goes beyond the statutory framework for making a request by allowing all employees regardless of their length of service to put in a request for flexible working.

2. Flexible Working Procedure

All forms and letters to support the flexible working procedure are available via the System An employee who wishes to apply for flexible working arrangements should use the following procedure.

2.1 The application

2.1.1 The employee should make an application in writing to their manager. All requests for flexible working arrangements must state when the revised working pattern is

expected to start and, wherever possible, should be submitted at least 14 weeks in advance of this date.

2.1.2 The manager who may be accompanied by a member of the Research Council HR team will meet with the employee within 20 working days of receiving the application.

2.1.3 The employee has the right to be accompanied by a work colleague or represented by a recognised trade union representative at the meeting. If the companion is unable to attend the meetings, management must defer to a new time within 5 working days of the original date. If this is also not possible the employee must consider being accompanied by an alternative companion so that the timeline may be maintained.

2.1.4 However, a meeting is not necessary if, within 20 working days of receiving the Flexible Working Application Form, the manager agrees to the proposed flexible working arrangements and notifies that employee in writing of the decision.

Managers should seek support and guidance from the Research Council HR team on receiving a request for flexible working. A member of the Research Council HR team may accompany managers at the meetings, and provide guidance on timelines and paperwork required to confirm any changes to employment terms and conditions that may be required.

If an employee fails to provide all of the required information, the manager should inform the employee that they will need to re-submit the complete application and that the Research Council is not obliged to consider the application until such time.

2.2 Withdrawal of an application

2.2.1 Applications may be withdrawn by the employee in writing. Following a withdrawal, a further application may not be placed for the following 12 month period. In exceptional circumstances only and where an employee finds themselves subject to substantial change in their home life it may be appropriate to allow an application sooner than 12 months.

2.2.2 Management may withdraw an application if the employee fails to attend any two meetings arranged in accordance with this Flexible Working Policy, without reasonable cause.

2.3 The decision

2.3.1 If a decision is taken to accommodate flexible working, details of the agreed arrangement will be notified to the employee in writing by the Research Council HR team within 10 working days of the meeting. The manager may respond using the acceptance letter form.

2.3.2 If the decision is taken not to allow flexible working as requested, this decision will be notified to the individual employee in writing with reasons. This decision may formally be appealed. This may include a review period if appropriate.

2.3.3 Requests for adopting a flexible working pattern may only be declined using one or more of the following reasons:

- Inability to rearrange work among existing staff
- Burden of additional costs
- Detrimental effect on the ability to meet customer/stakeholders demand
- Inability to recruit additional staff
- Detrimental impact on quality or performance
- Insufficiency of work during the periods that the employee proposes to work
- Planned structural changes

Employees may need additional assistance to enable them to comply with the procedure(s): for example, they may require adjustments under the Equality Act 2010 such as requiring assistance in accessing a room or to have information reformatted.

Employees may have other requirements: for example, caring commitments or the desire to observe religious practice. As an employer, the Research Council is obliged to cater for such needs in compliance with statutory legislation.

Wherever possible, reasonable requests should be treated favourably in the implementation of this policy. For further advice or clarification, managers should seek the advice of the Research Council HR team.

Both employee and employer should be prepared to be flexible over working patterns with the aim of reaching agreement about flexible working arrangements.

3. Appeals Process

3.1 Lodging an appeal

3.1.1 If an employee is not satisfied with the manager's decision they have the right to appeal. The person to whom they should send their appeal (the named manager) will be set out in the letter confirming the outcome of the manager's decision.

3.1.2 Any such appeal should be made in writing to the named manager (copied to Research Council HR) within seven working days of receipt of the outcome letter.

3.1.3 The appeal should indicate the grounds upon which the appeal is made. An employee can submit new evidence or information that they consider relevant to the appeal and should enclose copies of any relevant documentation.

3.1.4 Employees requiring assistance to put their appeal in writing should seek assistance from their Trade Union Representative or Research Council HR.

3.1.5 Upon receiving the appeal, the named manager will, in consultation with Research Council HR, decide on the appropriate person to hear the appeal. The named manager will acknowledge in writing that a formal appeal has been lodged and advise the employee of the person(s) who will hear it. This will be sent without unreasonable delay and normally within five working days of the appeal being first received.

3.2 Appeal hearing

3.2.1 The appeal hearing will normally be heard by a more senior manager from within the Research Council, who has had no previous involvement in the case. The person hearing the appeal will normally be accompanied by a member of Research Council HR.

3.2.2 The manager should act as Chairperson and will make the final decision

3.2.3 The manager conducting the appeal hearing will arrange a meeting with the employee to discuss the grounds of their appeal.

3.2.4 The appeal hearing will be held without unreasonable delay and normally within 10 working days of the appeal being received. The details of the meeting will be confirmed to the employee in writing prior to the meeting.

3.2.5 Employees have the right to be accompanied by a work colleague or represented by a recognised Trade Union representative at an appeal hearing. An employee should, where possible, confirm in advance of the meeting either verbally or in writing whether they wish to be accompanied by a work colleague or represented by a recognised Trade Union representative and, if so, the identity of that individual. Confirmation should be provided to the responsible manager.

At the appeal hearing the manager should:

- Introduce those present at the meeting and explain their roles.
- Explain the purpose and format of the appeal hearing, including the possible outcomes
- Invite the employee to explain the basis on which they are appealing, referring to documents or evidence previously submitted or any new evidence which has come to light where they believe this may support their grounds for appeal.
- Ask all necessary questions and summarise the facts.
- Decide on whether any further investigation is required including speaking with witnesses. This may require an adjournment. There should always be an adjournment to enable the manager to consider everything stated in the evidence and where necessary to investigate matters or seek appropriate advice before deciding on the outcome.
- Whenever possible, verbally inform the employee of the decision reached and the reasons for it.

3.2.6 Employees must take all reasonable steps to attend the appeal hearing.

3.2.7 Where an employee is unable to attend because of circumstances beyond their control, they should inform the manager as soon as possible. The hearing should be postponed and rearranged for another more suitable date.

3.2.8 Should the individual the employee has chosen to accompany/represent them not be available on the proposed meeting date, the employee may suggest an alternative date and time for the meeting to be held. The alternative meeting date must be held within five working days of the original date proposed.

3.2.9 Alternatively, in exceptional circumstances and with agreement of both parties, the employee can give their consent for the chosen Research Council colleague or Trade Union representative to attend the hearing and present the employee's case. The employee may also be allowed to make written submissions in such a situation.

3.2.10 Should the employee (or their companion/representative) be persistently unable or unwilling to attend the appeal hearing over a period of one month, and no written submissions are made in their absence, the Research Council will have no further obligation to proceed with the appeal and the appeal may be found to be unsubstantiated.

3.2.11 The purpose of an appeal hearing is to consider the grounds of the appeal and assess whether or not the original decision was fair and reasonable in all the circumstances and that the procedure was followed correctly.

3.2.12 At the appeal hearing the employee will have the opportunity to:

- submit any new evidence

- comment on any new evidence,
- raise any procedural issues, or comment on those matters they believe have been ignored and/or received insufficient consideration.

3.2.13 Depending on the nature of any new evidence submitted by the employee, the manager may deem it necessary to adjourn the hearing to conduct further investigation.

If the manager hearing the appeal feels there are sufficient reasons to question the initial process followed, a more detailed approach should be taken at the appeal stage. In certain circumstances it may be found that the only way to remedy defective initial steps is to have a total rehearing of the case. However, this should not be the norm.

4. Appeal Outcomes

4.1 Possible outcomes are as follows:-

- **Uphold the decision** i.e. confirm the decision taken, thereby rejecting the employee's appeal;
- **Overturn the decision to decline the application** i.e. set aside the original outcome, thereby upholding the employee's appeal;
- **Amend the original decision on the application** i.e. substitute an alternative course of action e.g. a trial period.

The decision should be clearly communicated to the employee in the appeal decision letter. This response should explain the reason(s) for the decision and advise the employee that there is no further right of appeal.

5. Employee's right to be accompanied

5.1 All employees have the right to be accompanied by a work colleague or represented by a recognised Trade Union representative at any formal meetings under the policy.

5.2 At any formal meeting, the chosen work colleague or Trade Union representative may:

- outline the employee's case
- make statements on their behalf
- sum up the employees case
- confer with the employee

5.3 They may not however answer any questions on behalf of the employee.

6. Extension of timescales

The above timescales may be extended by mutual agreement

7. Policy review

7.1 This policy will be regularly reviewed to incorporate any legislation changes. The TU may request that a policy is reviewed.

8. Amendment history

Version	Date	Comments/Changes
2.0	1 July 2014	Reference removed to statutory rights as all employees, regardless of their length of service are eligible to put in a request for flexible working