

Flexible Working Policy and Procedure

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Carmarthenshire
County Council



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Equalities statement

All employees are required to adopt a positive, open and fair approach and ensure the Authority's Equality and Diversity Policy is adhered to and applied consistently to all irrespective of race, colour, nationality, ethnic or national origins, disability, religion and belief or non-belief, age, sex, gender reassignment, gender identity and gender expression, sexual orientation, pregnancy or maternity, marital or civil partnership status.

In addition, the Welsh Language Standards ask us to 'ensure that the Welsh language is treated no less favorably than the English language' and this principle should be adopted in the application of this Guidance.

If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team who will, if necessary, ensure the policy/procedure is reviewed accordingly.

1. Introduction

Under the provisions set out in the Children and Families Act 2014, all employees have a statutory right to ask their employer for a permanent change to their contractual terms and conditions of employment to work flexibly.

Carmarthenshire County Council has a statutory duty to consider all such applications seriously.

This statutory right does not provide an automatic right to work flexibly. The Authority will work with employees to try and reach mutually acceptable flexible working arrangements that meet the needs of both parties. However, there may be circumstances where a request to work flexibly may be declined due to business reasons and these will be clearly explained during the application procedure.

The statutory right aims to facilitate discussion and encourage both the employee and the line manager to consider alternative flexible working patterns and to find a solution that suits both parties.

Before 20th June 2014 the right only applied to the parents of children under 17 or 18 in the case of parents of disabled children or those caring for an adult. Now any eligible employee can apply to work flexibly for any reason.

2. **Scope**

This policy and procedure applies to all Carmarthenshire County Council employees excluding staff on the compliment of locally managed schools.

3. **Principles**

- Each application for flexible working will be considered on its own merits and subject to qualifying criteria.
- Employees will be provided with appropriate support and information during the course of their application by their line manager with advice from the HR Team.
- Either a recognised trade union representative or a work colleague can accompany employees as a companion at the meeting or the appeal meeting.
- Employees can expect to have their application considered properly in accordance with the set procedure.
- Applications will be dealt with in accordance with the time limits prescribed unless both parties agree to an extension.
- Applications will only be refused where there is a clear business ground for doing so. The reasons for rejecting the application will be clearly explained.
- All agreed contractual variations under this procedure will be recorded in writing.
- A successful application will result in a permanent change to the employee's terms and conditions of employment.

4. **Eligibility**

In order to make a request the individual will:

- be an employee;
- have worked for Carmarthenshire County Council continuously for at least 26 weeks at the date the application is made;
- not be an agency worker;
- not have made another application under this policy during the previous 12 months

Once eligibility has been established an employee can made a request under this policy by completing attached form FW (A).

5. Scope of the Request

Eligible employees will be able to request:

- A reduction in the hours they work
- A change to the times when they are required to work
- A change to the place at which they work in full or in part (specifically home as opposed to workplace).

Examples of types of flexible working patterns that may be requested are contained at Appendix 1. However, it should be noted that not all the work patterns identified may be suitable to your circumstances or working environment.

6. Making an Application

All requests must be made in writing by filling the application form FW (A). Any request under this policy must include:

- Date of the application
- The changes that the employee is seeking to their terms and conditions
- The date on which the employee would like the terms and conditions to come into effect
- What effect the employee thinks the requested change would have on the organisation
- How in their opinion, any such change might be dealt with
- Whether or not the employee has made a previous request for flexible working and if so when the employee made that application.

7. The Procedure

An employee must in the first instance submit their formal application using FW (A). The level of detail required will depend on the desired changes to the existing working pattern. However, employees should note that it could take up to 3 months to complete the process from submission of the application to final implementation. (Guidance for employees is contained at Appendix 2).

An accepted application will mean a permanent change to the employee's own terms and conditions of employment. There will be no right to revert to the previous working pattern i.e. to increase their hours of work. It will be important therefore that before making an application the employee gives careful consideration to which working pattern will be best for them, any financial implications, including their pension and to any effects such a request will have on the Authority and how the request can be accommodated.

It is also the line manager's responsibility to carefully consider an application for flexible working and examine how the desired working pattern can be accommodated within a particular service area or function. Where the request cannot be supported the line manager should explore alternative options with the employee which may be mutually agreeable.

At all stages of this procedure both employees and line managers can seek advice from the HR Team within People Management. Employees may also seek advice from a recognised trade union representative.

8. Considering the Application

It is possible for a manager to agree to a request to work flexibly simply on the basis of the application itself and if so s/he should write to the employee within 28 calendar days, specifying agreement and the start date. Where this is not possible, there is a set procedure to be followed.

An application will be considered to have been made on the day it was received by the Authority. For applications sent by email this day is taken to be the day of transmission. For applications sent by post it means the day on which it would have been delivered in the ordinary course of post, unless shown to be otherwise.

If an employee does not provide all the information required the line manager should inform the employee what they have omitted and ask them to re-submit their application within 7 calendar days. The line manager should also inform the employee that s/he is not obliged to consider the request until it is complete and re-submitted.

If the employee does not provide the line manager with the information needed to assess whether the change can be agreed to, e.g. s/he has not described the desired working pattern, the Authority will be entitled to treat the application as withdrawn. The employee will not then be able to make another application under this procedure for a further 12 months. It is therefore important for the employee to provide all the information requested.

9. The Meeting

A meeting is not required where the line manager is able to approve the flexible working request, based on the information provided in the application.

If the line manager cannot approve the flexible working request based on the information they have, they must arrange a meeting within 28 calendar days of receiving a the formal application under this procedure. The employee will be entitled to be represented at the meeting by a companion i.e. a recognised trade union representative or work colleague (please refer to the Authority's guidance on the "Role of a Companion"). Where an employee chooses to be accompanied at the meeting and the companion is unable to attend, the meeting should be rearranged to take place within 7 calendar days of the original date proposed for the meeting.

The purpose of the meeting is to allow both parties an opportunity to explore the desired work pattern in depth and to discuss how best it might be accommodated. It will also provide an opportunity to explore other alternative working patterns should there be problems with the proposal put forward by the employee. The meeting can be adjourned to allow the employee and/or the line manager to consider alternative solutions or working patterns and agreement reached on the next meeting date.

If an employee does not attend a meeting without notification and does not provide a reasonable explanation within 7 calendar days the line manager should write to the employee confirming that the application is treated as withdrawn.

The line manager is responsible for taking and retaining notes of all meetings with the employee to discuss the flexible working application.

10. The Right to be Accompanied

An employee will have the right to be accompanied by a companion at the meeting and/or the appeal meeting concerning their application for flexible working. The companion can be either a recognised trade union representative or a work colleague. The statutory right means that a trade union official not employed by the Authority will have no statutory right to accompany an employee. The person accompanying the employee can provide advice and address the meeting/appeal meeting but is not allowed to answer questions on the employee's behalf. The companion will have the right to request reasonable paid time off to prepare for and attend the meeting/appeal meeting.

11. Informing the Employee of the Outcome

Where an application is approved, the line manager should:

- Within 14 calendar days of the meeting, confirm in writing to the employee their agreement with the proposed or alternative work pattern and confirm a start date. Form FW (B) should be completed and returned to the employee.

Where an application is rejected, the line manager should:

- Within 14 calendar of the meeting, provide in writing to the employee a clear business grounds as to why the application cannot be accepted and their reasons why the grounds apply in the circumstances. Form FW (C) should be completed and returned to the employee.

There may, however, be occasions when the line manager will take further advice before notifying the employee of their final decision. Should this be the case, the line manager should agree with the employee concerned an extension to the time limit for responding to the application. This should be clearly documented with the revised time limit being specified.

12. Trial Periods

Trial periods can help both the employee and line manager test a particular working pattern to see if it works out to the satisfaction of both parties.

In some circumstances, especially when caring for an adult, a permanent change may not be the best solution e.g. an employee suddenly becomes the carer of an adult with a terminal illness, the line manager may consider a temporary flexible working arrangement, agreed informally outside the formal procedure or agree to a time limited change after which the employee reverts back to the original pattern.

Trial periods can potentially happen at two stages before a formal agreement is reached:

- The line manager could give informal agreement to a trial before a formal flexible working request has been made by the employee; if this happens, the formal procedure is still available to the employee at some stage in the future; or
- If a formal application is made, an extension of the time for an employer to make a decision could be agreed and the trial period could happen before a final agreement takes place; in this case the rest of the formal procedure would still be available to the employee.

Trial periods or temporary arrangements should be for no longer than 6 months, at which point the employee should either revert to their original working pattern or the new flexible working arrangement should become a permanent change to their contract.

13. Business Grounds for Refusing a Request

Unfortunately, service needs or circumstances may dictate that an application for flexible working cannot be accommodated in accordance with the employee's desired work pattern or a compromise agreed. Under the legislation, applications can only be rejected for one or more of the following reasons:

- 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 (of service)
- Detrimental impact on performance
- Insufficiency of work during periods the employee proposes to work
- Planned structural changes

The line manager will clearly document and provide for the employee the ground(s) for rejecting an application as well as clearly explain how the specified ground(s) apply in the circumstances of their application. Form FW (C) should be completed as detailed above.

14. Appeal

Where the line manager turns down an application, the employee has the right to appeal against the decision. This must be done in writing, to the appropriate Director or nominated representative setting out the grounds for the appeal, within 14 calendar days of receipt of the written notice of the decision (employees should complete Form FW (D)).

The appropriate Director or nominated representative will hear the appeal with advice from the Assistant Chief Executive (People Management) or nominated representative.

An appeal meeting will then be convened within 14 calendar days of receipt of the letter of appeal (Form FW (D)). The employee will be entitled to be represented at the appeal by a recognised trade union representative or work colleague. Where an employee chooses to be accompanied and the

companion is unable to attend, the meeting should be rearranged to take place within 7 calendar days of the original proposed date for the appeal meeting.

Where new information is presented to the appeal, which supports the ground(s) for the appeal, this will be taken into account. For instance, where the original application has been refused due to the inability to reorganise work among existing staff or was due to the inability to recruit additional staff; and another employee has since elected to return to work following maternity leave on a part time basis and is prepared to cover the hours.

In circumstances where the employee does not attend an appeal meeting without notification and does not provide a reasonable explanation within 7 calendar days the Director or nominated representative should write to the employee confirming that the appeal is treated as withdrawn.

15. Informing the Employee of the Outcome

The decision of the appeal meeting will be notified to the employee within 14 calendar days of it being held. The appropriate Director or nominated representative will communicate this in writing to the employee by completing Form FW (E). The decision at appeal will be final and exhausts the internal procedure.

If the appeal is upheld the written decision must:

- Include a description of the new working pattern;
- State the date from which the new working pattern is to take effect; and
- Be dated.

If the appeal is dismissed the written decision must:

- State the grounds for the decision appropriate to the employee's own grounds for making the appeal;
- Provide an explanation as to why the grounds for refusal apply in the circumstances; and
- Be dated.

16. Declined Applications

Most applications will conclude with a satisfactory outcome but there may be occasions when the employee feels their application has not been dealt with to their satisfaction and the request is declined. The employee may want to involve a third party or be thinking about making a complaint to an employment tribunal. However, the following are options to deal with unresolved and declined applications:

- Through an informal discussion with their line manager
- Through the Authority's Grievance Procedure
- Using third party involvement e.g. an ACAS official

However, an employee can make a complaint to an Employment Tribunal or ACAS early conciliation where:

- The employer has failed to follow the procedure properly; or
- The decision by the employer to reject an application was based on incorrect facts.

An employee has no right to make a complaint where they simply disagree with the business grounds provided. Please note that the early conciliation scheme is voluntary and both the employee and employer must agree to the process.

17. Extension of Time Limits

There will be exceptional occasions when it is not possible to complete a particular part of the procedure within the specified time limit. Such extension of time limits can only take place if both the line manager and the employee agree to them. The line manager must make a written record of this agreement and send a copy to the employee. Form FW (F) should be completed. However, where the employee or line manager responsible for dealing with the application is away from work due to leave or illness, an automatic extension of the time limit will apply. The period the line manager has to arrange the meeting will commence either on the day of the employee or manager's return or 28 calendar days after the application is made. On the line manager's return to work, the application should be acknowledged so that the employee is aware that the extension has applied and the period in which they can expect to meet with their manager.

18. Withdrawal of an Application

There will be occasions when an application is treated as withdrawn. In all circumstances a written record must be made.

Under the legislation, should an employee withdraw an application following its submission to the line manager, the employee will not be able to make another application until 12 months from the date of the original application. Employees should complete and submit Form FW (G) to their line manager.

There are three reasons why an application may be treated as withdrawn:

- The employee decides to withdraw the application
- The employee fails to attend two meetings
- The employee unreasonably refuses to provide the line manager with the required information.

The appropriate line manager, Head of Service, Director, Assistant Chief Executive or their nominated representative will write to the employee to confirm this.

**If you require this publication in an alternative format please
contact People Management by email**

PMBusinessSupportUnit@carmarthenshire.gov.uk

Appendix 1

Examples of working arrangements/patterns which can be requested under the right to request flexible working are listed below:

Annualised hours – working time organised on the basis of the number of hours to be worked over a year rather than a week.

Compressed hours – total hours which can be worked over a shorter period e.g. full weekly hours being worked over 4 days instead of 5.

Flexi time – choice of actual working hours outside certain core times.

Home working – not necessarily on a full time basis but allows for time to be divided between home and office base. A risk assessment of the activities undertaken will be required in advice of this pattern of work being undertaken.

Job sharing – typically when 2 people are employed on a part-time basis but working together to cover one post.

Shift working – gives scope to open longer hours and for employees to have either set or different hours of work per week.

Staggered hours – different start and finish times at different times of the day.

Term time working – allows for unpaid leave of absence during the school holidays.

Appendix 2

Guidance for employees

How to help the Authority consider your application:

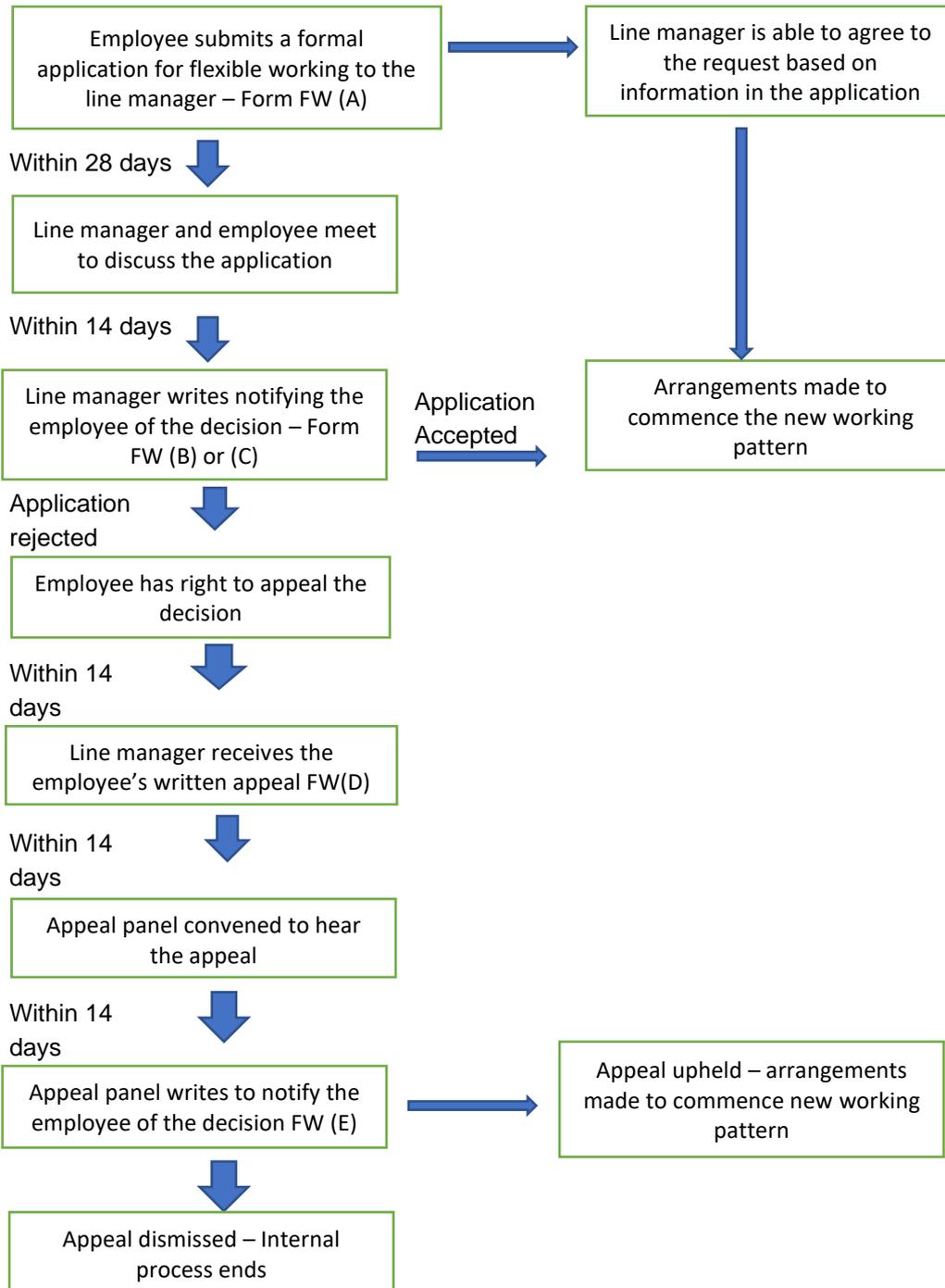
- Think carefully about the working pattern you require before making your request. You will have no right to revert back to your former hours of work.
- Be clear about the date you would like the new working pattern to commence. Allow sufficient time for the procedure to be undertaken.
- Always complete Form FW (A) when submitting your application. This will ensure that you provide all the relevant and necessary information for the Authority to consider your application properly.
- The more notice you provide in your application the more likely your line manager is to be able to accommodate your preferred start date.
- Take into account the financial implications of your request prior to submitting your application.
- It is to your advantage to provide as much detail as possible about the pattern you would like to work.
- Take time to consider the impact on your work colleagues if your working pattern is changed.
- Support your application by providing the perceived business benefits of approving a request for flexible working e.g. demonstrating how your request will provide extra cover at peak hours thereby improving customer service.
- Consider the potential problems your request may present and provide possible solutions.
- Ensure you submit your application to the appropriate officer for consideration.
- If you are due to go on maternity leave think carefully about when to submit your application. If you intend for your request, if approved, to start on your return to work then you will need to meet your line manager during your period of maternity leave.

The Meeting:

- Be prepared to expand on any points within your application
- Be prepared to be flexible e.g. consideration of alternative work patterns, trial periods or alternative start dates
- If you intend to be accompanied at the meeting ensure your companion is fully briefed on your request.

APPENDIX 3

Flexible Working Procedure – how the process works



FORM FW (A)

Statutory right to request flexible working Flexible working application form

To be eligible to make a request for flexible working, you must have at least 26 weeks' continuous service with Carmarthenshire County Council. If you are uncertain whether or not you are eligible to make a request, please contact your Manager. You can only make one formal request in any 12 month period.

1. Personal Details

Name:

Employee Number:

Address:

Manager:

Start date with Carmarthenshire County Council?

Have you submitted a previous request for flexible working? Yes No

If yes to the above, when did you submit your last request for flexible working?

Are you a disabled person whose request for flexible working is related to your disability? Yes No

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

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

2c. I would like this working pattern to commence on the following 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:

Once you have submitted a valid application for flexible working, your manager will contact you to either arrange a meeting to discuss your application further, or inform you that your request has been granted. A meeting should take place within 28 days of making your application.

If your request is granted, it will mean a permanent change to the terms and conditions of your employment.

Signature:

Date:

Now pass this to your line manager.

FORM FW (A1)

Notification of meeting to discuss flexible working application

A meeting should be held within 28 days of the application being made.

Dear:

Employee Number:

Following receipt of your application for flexible working, I would like to invite you to attend a meeting, the purpose of the meeting is to discuss in more detail your application, to fully understand your requirements and to discuss some possible alternatives.

The meeting will take place on _____ at _____ in _____.
You are entitled to be accompanied by a recognised trade union representative or work colleague at the meeting.

Name:

Date:

Signature:

FORM FW (B)

Flexible working application acceptance form

Note to the employer

You must write to your employee within 14 days following the meeting with your decision. If you cannot accommodate the requested working pattern you may still wish to explore alternatives to find a working pattern suitable to you both.

Please note that Form FW(C) (flexible working application rejection form) should be used if the employee's working pattern cannot be changed, and no other suitable alternatives can be found.

Dear:	Employee Number:
Following receipt of your application and our meeting on (insert date) I have considered your request for a new flexible working pattern. (please delete as appropriate) I am pleased to confirm that I am able to accommodate your application. Or I am unable to accommodate your original request. However, I am able to offer the alternative pattern which we discussed and you agreed would be suitable to you.	
Your new working pattern will be as follows:	
Your new working pattern will begin from:	(date)

Note to employee: please note that the change in your working pattern will be a permanent change to your terms and conditions of employment and you have no right in law to revert to your previous working pattern, unless otherwise agreed.

If you have any questions on the information provided on this form please contact me to discuss them as soon as possible.

Name: _____ Date: _____
Signature: _____

Now return this form to your employee.

FORM FW (C)

Flexible working application rejection form

Note to the employer

You must write to your employee within 14 days following the meeting with your decision. This form can be completed by you when declining an application. Before completing this form you must ensure that full consideration has been given to the application. You must state the business ground(s) as to why you are unable to agree to a new working pattern and the reasons why the ground(s) applies in the circumstances.

Dear:

Employee Number:

Following receipt of your application and our meeting on _____ I have considered your request for a new flexible working pattern.

I am sorry but I am unable to accommodate your request for the following business ground(s):

The grounds apply in the circumstances because:

(You should explain why any other work patterns you may have discussed at the meeting are also inappropriate. Please continue on a blank sheet if necessary.)

If you are unhappy with the decision you may appeal against it. Details of the appeal procedure are set out on FORM FW (D).

Name:

Date:

Signature:

FORM FW (D)

The appeal process

To the employee

If your employer turns down your request for flexible working, you have the right to appeal against the decision. If you wish to appeal, you must write to your employer, setting out the grounds of your appeal, within 14 calendar days after receiving written notification of their decision.

Dear

I wish to appeal against your decision to refuse my application for flexible working. I am appealing on the following grounds:

(please continue on a separate sheet if necessary)

Name:

Employee Number:

Date:

Now return this form to your employer

To the employer

If you reject your employee's request for flexible working, your employee has the right to appeal against your decision.

If your employee appeals against your decision to refuse a request for flexible working, you must arrange an appeal panel to hear their appeal, this must be done within 14 calendar days after receiving the appeal letter.

After the hearing has been held, you must write to your employee within 14 calendar days to notify them of the outcome of the appeal using Form FW (E)

FORM FW (E)

Flexible working appeal reply form

Note to the employer

You may complete this form when replying to an appeal that an application to work flexibly has not been properly considered. You must return this form to your employee, giving notice of your decision, within 14 calendar days after the meeting at which you both discussed the appeal. If you decide to turn down the appeal, you must state the grounds for your refusal.

Dear:	Employee Number:
Following the appeal panel on: I have considered your appeal against the decision to refuse your application to work a flexible working pattern.	
I accept your appeal against the decision. I am therefore able to accommodate your original request to change your working pattern as follows:	
Your new working arrangement will begin from	(date)

Note to the employee

Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment and you have no right in law to revert back to your previous working pattern.

Or

Dear:	Employee Number:
Following the appeal hearing on I am sorry but I must reject your appeal for the following ground(s):	
The ground(s) apply because:	
(please continue on a separate sheet if necessary)	
Name:	Date:
Signature:	

Now return this form to your employee

FORM FW (F)

Flexible working extension of time limit for part of the procedure

Note to the employer

This form is provided for you to complete when confirming agreement with your employee that you wish to extend a time limit for part of the procedure, from that set out in the regulations. You may extend the time limit for any part of the process, providing your employee agrees the extension.

Dear:	Employee Number:
I wish to extend the amount of time that the regulations allow me to: (please select appropriate action).	
<ul style="list-style-type: none">• Arrange a meeting to discuss your application (28 days)• Notify you of my decision regarding your application (14 days)• Arrange a meeting to discuss your appeal (14 days)• Notify you of my decision regarding your appeal (14 days)	
I wish to extend the time limit to _____ days. This means that I will have until (date) to complete the necessary action. I need the extra time for the following reason:	
If you agree to this extension, please complete the slip below and return it to me. After this date the flexible working procedure and time limits will recommence	
Signed:	Date:

Now pass this application to your employee

Note to the employee

To allow proper consideration of your request, your employer may wish to extend the permitted time limit for any part of the process. Your employer will need your agreement to any extension of the time limit. If you agree to the above request, please complete the agreement slip below and return it to your employer within 7 calendar days.

Employee's Agreement to Time Extension (return to employer)	
I accept your request to extend the amount of time to (date). After this date the flexible working procedure and time limits will recommence.	
Name:	Employee Number:
Signature:	Date:

FORM FW (G)

Flexible working notice of withdrawal form

Note to the employee

This form provides notification to your employer that you wish to withdraw your application to work flexibly. Once you have withdrawn your application, you will not be able to make another application until 12 months from the date your original application was made.

Dear:	Employee Number:
I wish to withdraw my application to work flexibly which I submitted to you on (date of original application).	
I understand that I will not be able to make another application until 12 months after the above date.	
Name:	Date:
Signature:	

Now return this form to your employer

Note to employer

Once your employee has completed this form and returned it to you, the application is considered as withdrawn and you are not required to give it any further consideration. You should complete the slip below and return it to your employee to confirm your receipt of the withdrawal notice.

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

Employer's confirmation of withdrawal (complete and return to employee)	
Insert employee's name, address and employee number	
Dear:	
I confirm that I have received notice that you wish to withdraw your application for flexible working which you submitted to me on (date)	
Under the right to apply, you will not be eligible to submit another application until 12 months after the above date.	
Signed:	Date: