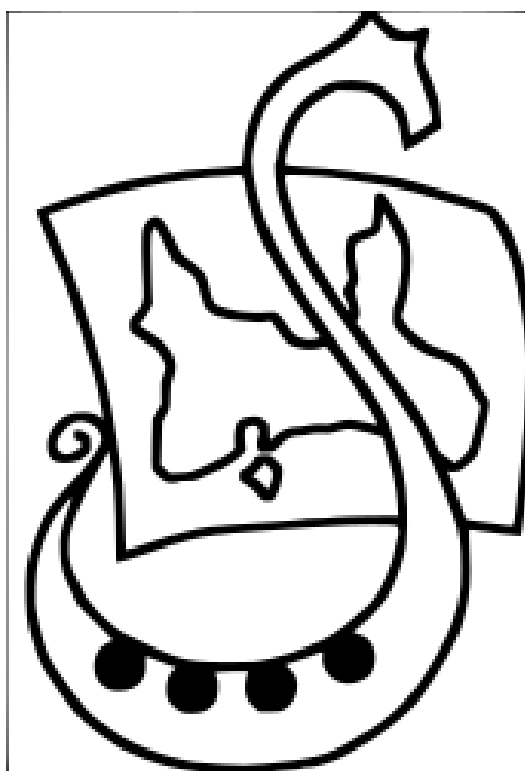


# FLEXIBLE WORKING POLICY AND PROCEDURE

*Policies Collection –  
Revised & reissued October 2015*

**SHAPINSAY DEVELOPMENT TRUST**

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## **FLEXIBLE WORKING POLICY AND PROCEDURE**

### **Introduction**

This document does not form part of your contract of employment and may be changed from time to time in line with current best practice and statutory requirements, and to ensure that organisational needs are met. You will be consulted and advised of any changes as far in advance as possible of the change being made, unless the change is required by statute.

This organisation believes that its staff members are its most valuable asset and is committed to attracting and retaining the very best, and utilising all the talent and experience available within the community. We also recognise that the workforce includes a high percentage of parents and individuals with other caring responsibilities, as well as those whose interests and aspirations impact on their time. It therefore appreciates that the standard Monday to Friday, 9am to 5pm working week is, in many cases, incompatible with increasing demand for a better work-life balance.

The organisation recognises the importance of helping its employees balance their work and home life by offering flexible working arrangements that enable them to balance their working life with other priorities, including parental and other caring responsibilities, life-long learning, charity work, leisure activities and other interests. In turn it recognises that staffing levels must at all times remain in line with the demands of the organisation and the services we provide.

### **Aims**

This policy aims to set out the ways in which flexible working can increase staff motivation, build better relationships between the organisation and its employees, increase the rate of retention of staff, reduce absence, attract new staff, promote work-life balance and reduce employee stress, and in doing so improve the organisation's efficiency, productivity and effectiveness.

### **Types of Flexible Working**

Flexible working means that an employee can request a change to:

- the hours that he or she is required to work;
- the times that he or she is required to work; and/or
- where, as between his or her home and the employer's place of business, he or she is required to work.

This could be, for example:

- job-sharing;

- part-time working;
- annualised hours;
- compressed hours;
- flexitime;
- term-time working;
- swapping hours;
- voluntary-reduced working time;
- working from home;
- career breaks.

The organisation recognises that there may be alternatives, and that the working pattern that may suit any particular individual could be a unique one involving a combination of options.

### **Eligibility**

An individual applying for a more flexible pattern of working hours must be an "employee" in the strict legal sense of the word, i.e. he or she must be employed under a contract of service.

Employees must not have submitted an earlier application to work flexibly within the previous 12 months, regardless of whether the previous application was made in relation to the same caring responsibility or a different one.

Although it is recognised that not all of the flexible working patterns considered will be suitable for all types of post, there should be no arbitrary barriers. Subject to the above, all staff will be considered for flexible working regardless of their age, sex, sexual orientation, race, or religion or belief, or whether they have a disability, their level of seniority, their current working pattern, or whether they are employed on a permanent or fixed-term basis.

However, there is no automatic right for employees to change to any of the flexible working patterns - each application will be considered on the basis of the particular work involved and any detrimental effect the change could have on individual, team or organisational needs.

### **Right to request flexible working**

The Employment Act 2002 and subsequent amendments currently gives the right to employees with 26 weeks or more service the right to request flexible working if they have

- a child under the age of seventeen (18 where the child is disabled) and parental responsibility for the child

OR

- caring responsibilities for an adult aged 18 or over who is their spouse, partner or civil partner; a relative; or someone who lives at the same address also have the right to request flexible working.

While it is the organisation's policy to be flexible on working patterns for all its employees, in order to ensure that it is complying with its legal obligations concerning the right to request flexible working, there may be situations where precedence has to be given to those who are legally eligible for this right.

Any change agreed will be a permanent change to the employee's terms and conditions of employment, unless a trial or temporary period is agreed.

## **Grounds for Refusing a Request**

Under legislation the employer can refuse a request if it considers that granting the request will result in unreasonable additional costs or a detrimental impact on the services it provides. In addition, the employer may consider that it is not possible to grant a request due to the inability to reorganise work amongst existing staff, the inability to recruit additional staff, a detrimental effect on quality or performance, a detrimental effect on ability to meet the demands of customers or service users, insufficiency of work during periods that the employee proposes to work or planned structural changes.

## **Making a Request**

The organisation will give serious consideration to your request, and will work with you to try and agree a suitable arrangement, where reasonably possible.

We will evaluate a request for flexible working based on its impact on the organisation and will therefore have to consider the business needs of customers and colleagues. The nature of your job, how the job and workload could be restructured, and supervision will all be looked at.

In order to make a request you must complete the 'Flexible Working Application Form,' Form FW (A) and submit it directly to your line manager.

## **Process for Considering Requests**

Following receipt of your application, your line manager will discuss your application with the Chair.

If the application can be accepted without further discussion, line managers must notify the employee in writing of this acceptance within the same 28 day period using Form FW (B): Flexible Working Acceptance Form.

Where a meeting is required, this will be arranged within 28 days of receipt of your request. You have a statutory right to be accompanied at this meeting by a fellow employee. Employees acting as companions, have a statutory right to be given paid time off during working hours for this purpose.

After the meeting, your line manager will write to you within 14 days to either agree to the change or refuse the application.

## **Acceptance of an Application**

Where an application is granted, your line manager will confirm this in writing using the form FW (B): Flexible Working Acceptance Form. This notification will tell you that your

proposal has been accepted and will specify the contract variation agreed to and the date it is to take effect.

## **Refusal of an Application**

If your application is refused, your line manager will inform you in writing by completing form FW (C): Flexible Working Application Rejection Form. This will clearly set out the reasons for the refusal and why the business reasons apply in your case.

## **Appeals**

You have the right to appeal against your application for flexible working being refused. Should you wish to appeal you should use Form FW (D): Flexible Working Appeal Form for this purpose and send it to the AFSSO. You have 14 days to appeal after you receive notification of the decision.

When the AFSSO receives the appeal form, an appeal meeting will be arranged within 14 days. Appeals will normally be heard by a manager not previously involved in making the original decision. The appeal panel will normally consist of the Chair and a member of the Board. You have the right to be accompanied by a work colleague at the appeal.

You will be informed of the outcome within 14 days of the appeal hearing using Form FW (E): Flexible Working Appeal Outcome Form. You will be either be advised on whether the appeal is being upheld and the subsequent changes to your contract or that the appeal is being dismissed and the reasons for this.

## **Withdrawing an Application**

Should you wish to withdraw your application, you must forward Form FW (G): Flexible Working Notice of Withdrawal Form to your line manager.

## **Extension of Time Limits**

Where it is not reasonably possible to complete a part of the procedure within the timescales outlined then extensions to time limits must be mutually agreed between you and your line manager and will be confirmed in writing to you.

Line managers should complete Form FW (F): Flexible Working Notice Extension of Time Limit Form.

Where an application is sent to your line manager and they are absent from work due to leave or illness, an automatic extension applies. The period of time in which a meeting will be arranged with you to discuss your application will then start on the day of your line manager's return or 28 days after you submit your application whichever is sooner. Your line manager will confirm receipt of your application and the extension in writing to you.

## **Complaints Procedure**

If any employee considers that she or he has been unfairly treated or discriminated against under the terms addressed in this scheme, the appropriate avenue of complaint will be through the grievance procedure.

## Related Policies and Procedures

- Equal Opportunities Policy
- Grievance Policy and Procedure

Implementation Date: Reissued 30/10/2015

Review Date: 30/10/2017

## Appendices

- Appendix 1: Application for Flexible Working
- Appendix 2: Flexible Working Acceptance form
- Appendix 3: Flexible Working Rejection form
- Appendix 4: Flexible Working Appeal Form
- Appendix 5: Flexible Working Appeal Outcome
- Appendix 6: Flexible Working Extension of Time Limit request
- Appendix 7: Flexible Working Notice of Withdrawal of request

Appendix 1

### **Application for Flexible Working Form (FW/A)**

Employee name.....

Post.....

Department.....

Information provided in the shaded areas refers to the statutory flexible working regulations only. Please make sure you take the time to read it and delete the appropriate areas which are relevant to the nature of your request.

NB: (please complete section 1A OR 1B as appropriate to your circumstances).

### **Section 1A**

Under the Employment Act 2002 and Work and Families Act 2006, if you have a child under the age of 17 or a disabled child under the age of 18, OR you are caring for an adult (a person aged 18 or over) who you are married to, or is your partner or civil partner OR is a near relative you are legally entitled to apply for flexible working. To monitor THE ORGANISATION's compliance with this, please indicate if you are making an application under this legislation by ticking the box.

I would like to apply for a flexible working option that is different from my current pattern (please complete either the "Working Parent" section OR "Adult Carer" section as applicable to your circumstances).

**Working Parent**

I can confirm that I **meet each** of the eligibility criteria as follows (please tick each box):

- 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 or foster parent of the child; or married to or the civil partner / partner of the child’s mother, father, adopter, guardian or foster parent;
- I am making this request to help me care for the child;
- I am making this request no later than 2 weeks before the child’s 17th birthday or 18th birthday where the child has a disability;
- I have worked continuously as an employee of THE ORGANISATION for the last 26 weeks;
- I have not made a request to work flexibly under this right during the last 12 months.

**Section 1B**

I do not have a right under legislation to request a flexible working pattern but wish my application to be considered on its own merits.

1. Please provide details of your current working pattern (days/hours/times worked).

.....  
.....  
.....  
.....

2. Please provide details on the pattern of work you would like to work (days/hours/times).

.....  
.....  
.....  
.....

3. Please state your reasons for the request and indicate how you meet the eligibility criteria.

.....  
.....  
.....  
.....  
.....

.....

4. What will be the impact of this proposed new working pattern on the organisation and your department?

.....

.....

.....

.....

.....

.....

.....

5. How do you think your department can accommodate your request?

.....

.....

.....

6. I would like this arrangement to commence from .....(date)

Is this a permanent request? **YES/NO** (delete as appropriate)

If NO, what is your proposed end date?.....

**Declaration**

I am applying to work flexibly to care for the child/care for an adult *(delete as appropriate)* specified above for whom I am responsible for *(please delete this if you are not asserting a statutory right to work flexibly.)*

The information in this application is correct. I understand that if my application is being made under the statutory flexible working provisions, that it will mean a **permanent** change to my terms and conditions, **unless mutually agreed otherwise** and I will have no right in law to revert back to my previous working pattern.

Employee's signature.....Date.....

**Please now forward this form onto your line manager.**



.....

**Cut this slip off and return to the employee to confirm receipt of their application.**



*Confirmation of Receipt (complete and return to employee)*

Dear .....

I confirm that I have received your request to change your work pattern on (date):.....

**I note that ~~you are/~~you are not making this application under the statutory Flexible Working Regulations (delete as appropriate).**

I shall be arranging a meeting to discuss your application ~~within 28 days/~~as soon as reasonably practicable (delete as appropriate) following this date. In the mean time you might wish to consider whether you would like a colleague to accompany you at the meeting. Any decisions made following the meeting will be communicated to you in writing within 14 days of the ~~meeting/~~as soon as reasonably practicable. The time limit can be extended by mutual agreement.

Signed: .....

Date:

*Line Manager*

**PASS A SIGNED COPY OF THIS TO THE CHAIR**

**Flexible Working Acceptance Form (FW/B)**

Employee ..... name

Post.....

Department.....

Following receipt of your application form for flexible working and our meeting on:

I have considered your request for a new flexible working pattern.

I am pleased to confirm that I am able to accommodate your application

I am unable to accommodate your original request. However, I am able to offer a suitable pattern, which we have discussed and you agreed would be suitable to you.

Your new working pattern is as follows:

Your new working arrangement will commence on (*please specify date*):

**NB:** Please note that if this is a change in your working pattern under the terms of the Employment Act 2002 and Work and Families Act 2006, it will be a **permanent** change to your terms and conditions of employment and you have no right to revert back to your previous working pattern (unless otherwise mutually agreed).

The employer will write to you formally confirming these new arrangements including amendments to your contract of employment.

Signed (Manager)

Print Name:

Date

**ONCE AUTHORISED, PLEASE PASS A COPY OF THE COMPLETED FORM TO THE SERVICE MANAGER**

For office use:

Request granted

**YES/NO**

Recorded

### Flexible Working Application Rejection Form (FW/C)

Employee name.....

Post.....

Department.....

Following receipt of your application form for flexible working and our meeting on:.....

I have considered your request for a new flexible working pattern. Unfortunately I am unable to accommodate your request for the following business ground(s). *(please refer to a-g as detailed below).*

These business grounds apply in the circumstances because *(please continue on a separate sheet if necessary).*

Additional Information *(if appropriate)*:

Signed (Manager).....

Print Name:.....

Date:.....

NB: If you are unhappy with this decision, you have a right of appeal. You must complete the appeal form within 14 days/as soon as reasonably practicable after receiving this decision. Under the statutory flexible working arrangements, the refusal of your request will be for one or more of the following grounds; (a) the burden of additional costs (b) detrimental effect on ability to meet customer demands (c) inability to reorganise work among existing staff (d) inability to recruit additional staff (e) detrimental impact on quality or performance (f) insufficiency of work during the periods the employee proposes to work (g) planned structural changes.

A meeting will be arranged with you to discuss an appeal within 14 days after receiving your letter/as soon as reasonably practicable. You are entitled to bring a fellow colleague along. After this meeting you will receive the outcome in writing within 14 days/as soon as reasonably practicable.

**ONCE AUTHORISED, PLEASE PASS A COPY OF THE COMPLETED FORM TO THE SERVICE MANAGER**

For Office use:

Recorded

**Flexible Working Appeal Form (FW/D)**

Employee  
name.....  
Post.....  
.....  
Department.....  
.....

Dear

I wish to appeal against the decision to refuse my application for flexible working. I am appealing on the following grounds: *(continue on a separate sheet if necessary)*

Signed (Employee):.....Date: .....

Print Name:.....

**PLEASE PASS A SIGNED COPY OF THIS FORM TO THE SERVICE MANAGER**

For office use:

Recorded



### Flexible Working Appeal Outcome Form (FW/E)

Employee name.....

Post.....

.....

Department.....

.....

Following receipt of our meeting on.....

I have considered your appeal against the decision to refuse your application to work a flexible working pattern.

I am pleased to confirm that I accept your appeal and am therefore able to accommodate your original request to change your working pattern as follows:

Your new working arrangements will begin from (date).....

I am unable to accommodate your original request. However, I am able to offer a suitable pattern, which we have discussed and you agreed would be suitable to you.

Your new working pattern is as follows:

Your new working arrangement will commence on (date) .....

NB: Please note that if you are applying under the terms of the Employment Act 2002 and Work and Families Act 2006, and your appeal is accepted, this will represent a permanent change to your terms and conditions of employment and you have no right to revert to your previous working pattern, unless otherwise agreed.

I am sorry but I must reject your appeal on the following grounds(s):

These grounds(s) apply because:

Signed (Chief Executive or otherwise as appropriate).....

Print Name:.....

Date.....  
.....



***PLEASE PASS A SIGNED COPY OF THIS FORM TO THE SERVICE  
MANAGER***

For office use:

Recorded

**Flexible Working Extension of Time Limit Form (FW/F)**

Employee name.....  
Post.....  
Department.....

Dear

Under the terms of the Employment Act 2002 and Work and Families Act 2006, I wish to extend the amount of time that the regulations allow me to:

- 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, which means that I will have until .....to complete the necessary action in relation to your application/appeal (delete appropriate).

The reason(s) I need the extra time are as follows (*please continue on separate sheet if necessary*):

If you agree to this extension, please complete the slip below and return to me.

Signed (manager): Date:.....

**Please now forward this form to your employee .**



Cut this slip off and return to your manager to confirm receipt.

<b>Confirmation of Receipt (complete and return to line manager)</b>
Dear

I confirm that I accept your request to extend the amount of time to  
.....

Signed:.....Date:.....  
.....

**PASS A COPY OF THIS SIGNED FORM TO THE SERVICE MANAGER**

**Flexible Working Notice of Withdrawal Form (FW/G)**

Employee name.....

Post.....

.....

Department.....

.....

Dear .....

I wish to withdraw my application to work flexibly which I submitted on (date).....

I understand that I cannot make another application until 12 months after the date on which I

submitted my request to you.

Signed:.....Date:.....

.....

**Please now forward this form onto your line manager.**



.....

**Cut this slip off and return to the employee to confirm receipt of their application.**

<b>Confirmation of Receipt (complete and return to employee)</b>
Dear
I confirm that I have received notice that you wish to withdraw your application for flexible working which you submitted on (date).....
You will not be able to submit another application to work flexibly until 12 months have passed from the date you submitted your request.
Signed:.....Date:.....
.....

*Line Manager*