

FLEXIBLE WORKING POLICY

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1. Introduction

This Flexible Working procedure and policy follows legislation on flexible working as outlined in *The Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002*, *The Flexible Working (Procedural Requirements) Regulations 2002*, *Work and Families Act 2006*, the *Equality Act 2010*, and *the Children and Families Bill 2013*. Members of staff should initially make their request using the Informal Procedure outlined in Section 3.

If the request will result in working fewer hours, prior to making their request, the member of staff should consider carefully the effect on pay, pension contributions and benefits which will also be reduced on a pro-rated basis. Further advice can also be sought from the [Pensions Team](#).

This procedure provides advice for line managers and members of staff about how the right to request flexible working operates and the duty of line managers to consider all such requests seriously.

2. Equality and Diversity

The College treats equality of opportunity seriously and has an equality framework that is applicable to staff in order to promote and ensure equality of opportunity. Implementation of this procedure must be clear and transparent and not subject to any unfair discriminatory practices.

Line managers and supervisors are required to familiarise themselves and understand this procedure.

3. Informal Procedure

3.1 Introduction

A request for flexible working could include any of the following work patterns: flexitime, home working, job-sharing, staggered hours, condensed hours or shift working.

In addition, a member of staff may apply to reduce their working hours, for example, if they wish to pursue a weekly course of study or undertake other non work-related commitments on a weekly basis. Applications for such a reduction in hours, for either a short-term or permanent basis, will be considered.

3.2 What the member of staff should do

The member of staff should arrange an informal one to one meeting with their manager in order to discuss their proposal for flexible working and to explain:

- the hours they would like to work
- the reasons why they wish to work flexible hours, including if they are making the request as a reasonable adjustment for a disability in relation to the Equality Act 2010¹
- how they think it will fit in with the needs of the department

¹ Information on what constitutes a disability
<http://www.imperial.ac.uk/equality/support-for-staff/disability/>

3.3 What the line manager should do

The line manager should give careful consideration to the member of staff's request, taking into account:

- service needs
- impact on others
- the prospect and reasonableness of securing additional or alternative cover for any outstanding hours or shifts
- any special circumstances offered as a basis for the request

If the line manager decides not to agree to a request, they should ensure this is based on business grounds, as outlined in section 4.6 below, and that there is sufficient evidence to support the business ground(s).

If the work pattern requested is not possible then both parties should consider possible alternative working patterns and/or trial the new arrangement for an agreed fixed period of time.

Where a suitable working pattern is agreed, the line manager should inform their HR Adviser, who will write to the member of staff informing them of any change to their terms and conditions of employment.

In most circumstances, the change to the member of staff's working pattern will be permanent. However, in circumstances where a short-term reduction in working hours is agreed, the written notification will include confirmation of the new arrangements, and the period during which the change will apply.

3.4 When a request is refused

As outlined above, if an informal request to work flexible hours is refused and the member of staff meets the eligibility criteria in Section 4, they can proceed with a formal application.

4. Formal Procedure

4.1. Eligibility

All members of staff will be eligible to request flexible working provided they have completed 26 weeks' continuous service at the date the application is made.

Eligible members of staff can request changes as set out in section 3.1 above. In accordance with the legislation, one formal application per year can be made. Each year runs from the date when the last application was made.

4.2. How to apply

A member of staff who wishes to request flexible working must make an application in writing to their manager. A written application can take any form, for example, letter, email or fax.

An application for flexible working must:

- State that it is being made under the statutory right to request a flexible working pattern.
- State if they are making the request as a reasonable adjustment for a disability in relation to the Equality Act 2010¹.

- Specify the flexible working pattern applied for and the date on which it is proposed the change should become effective.
- Explain what effect, if any, the member of staff thinks the proposed change would have on the department and how, in their opinion, any such effect might be dealt with.
- Provide reasons explaining why their preferred working pattern is compatible with the needs of the department, as far as they can tell.
- Consider how their colleagues will manage if their working pattern is changed
- State whether a previous application has been made and, if so, when.
- Be signed and dated.

The proposed date set by the member of staff should allow time for the application to be considered and implemented if practicable. All requests, including any appeals, must be considered and decided on within a period of 3 months from first receipt, unless an extension to this period is agreed with the member of staff

Applications are more likely to succeed where the flexible working pattern is consistent with the needs of the department and fits well with the working patterns of other staff.

Where an application is accepted this means a permanent change to the member of staff's terms and conditions of employment and the member of staff has no right to revert back to the previous working pattern unless otherwise agreed.

4.3 Considering an application

The member of staff's line manager has a legal duty to consider all applications, weighing up the benefits of the changes in working conditions to both the member of staff and the College against any cost of implementing the changes, and establishing whether the requested working pattern can be accommodated within the needs of the department.

The line manager should provide the member of staff with a written acknowledgement of receipt of the application.

If the application is incomplete or fails to provide all the required information the line manager should inform the member of staff, in writing, what they have omitted and ask them to resubmit their application.

The line manager should meet with the member of staff within 10 working days of the completed application being received. If it is difficult to arrange a meeting within 10 working days, the line manager should arrange to meet as soon as possible thereafter.

Where the line manager receives more than one request to work flexibly from different employees in close succession, these requests should be considered in the order received. Line managers are not required to make value judgements about the most deserving request. Requests must be considered in line with 3.3 above. Line managers may wish to discuss with the members of staff if there is any room for adjustment or compromise before coming to a decision.

If a line manager is unable to approve a request due to a number of members of staff already working flexibly and because any further flexible working arrangements

would have an adverse impact, they may wish to ask for volunteers from the existing flexible working staff to change their work patterns to create capacity.

4.4 Meeting

Arranging the meeting

The line manager should write to the member of staff, giving the date, time and venue of the meeting, and advise them that they may be accompanied by a Trades Union representative or work colleague, if desired. They should also inform the member of staff if they have asked an HR representative to attend the meeting.

A sample letter containing the above information can be provided by HR on request.

If a Trades Union representative or work colleague attends the meeting, they can address the meeting or confer with the member of staff. However the representative is not permitted to answer questions on behalf of the member of staff.

If a Trades Union representative or work colleague is unable to attend the meeting, it should be rearranged within 5 working days of the originally proposed date. The new date should be convenient to all parties. If this is not possible the member of staff should consider an alternative representative.

Participating in the meeting

The meeting will give both parties the opportunity to explore the requested working pattern in depth and to discuss how best it might be accommodated. Where necessary, this meeting will also provide an opportunity to consider alternative working patterns, alternative start date, or a trial period of the new working pattern. The member of staff should come to the meeting prepared to expand on any points in their application. They should also be prepared to be flexible.

During the meeting the line manager should give careful consideration to the member of staff's request, taking in to account the bulleted items outlined at section 3.3 above.

4.5 Where an application is accepted

Normally within 10 working days following the meeting, the line manager will write to the member of staff, copied to their HR Adviser, to explain the new work pattern and start date. The HR Adviser will then write to the member of staff to confirm the permanent change to their terms and conditions of employment and that no further request for a variation to their work pattern can be made for a period of 12 months.

Where a trial period or time limited period has been agreed this should be detailed in the written notice.

4.6 Where an application is refused

Normally within 10 working days following the meeting, the line manager will write to the member of staff informing them of the decision and providing clear business grounds as to why the application cannot be accepted and the reasons why the grounds for refusal apply in the circumstances. The line manager will also provide details to the member of staff regarding their right of appeal against the decision.

Business grounds for refusing a request must be for one or more of the following reasons:

- Burden of additional costs

- Inability to reorganise work amongst existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Detrimental impact on the delivery or the service
- Planned structural changes
- Insufficient work during the periods the member of staff proposes to work.

When specifying business grounds for refusing an application the line manager should include an explanation about why the business grounds apply in the circumstances.

4.7 Avoiding unlawful discrimination

In considering requests it is important that line managers are careful not to inadvertently discriminate against members of staff because of their protected characteristics, e.g. a male member of staff making a request to work flexibly for childcare reasons having their request refused because they are a man, or a member of staff recently diagnosed with a disability that requires a reasonable adjustment to their work pattern to enable them to perform their role.

4.8 Appeals Procedure

In all cases where it has not been possible for the line manager to agree to a new working pattern, the member of staff has the right of appeal against the decision.

In the written notification of the decision, the member of staff will be informed of the name of the person to whom an appeal should be addressed and the timescale for doing so. If the member of staff wishes to appeal they must set out the grounds of their appeal in writing. Any appeal should be dated and submitted within 10 working days of being notified of the original decision.

An appeal meeting should take place within 10 working days after receiving notice of the appeal.

Appeals will be heard by a senior line manager with a Human Resources representative, both of whom will have had no previous involvement.

The member of staff has the right to be accompanied to the meeting.

Appeal hearings will be conducted in accordance with the following terms of reference:

- To review whether the request for Flexible Working was given adequate consideration;
- To review whether the College's procedures were correctly and fairly implemented; and
- To consider whether the decision was reasonable in the circumstances known to management

The member of staff will be informed of the outcome of the appeal in writing within 10 working days after the date of the appeal meeting.

If the appeal is upheld the written decision must include the following:

- Description of the new working pattern
- Start date from which the new working pattern is to take effect
- Be dated

If the Appeal is dismissed the written decision must state the following:

- The grounds for the decision. These will be appropriate to the member of staff's own grounds for making the appeal
- Provide an explanation as to why the grounds for refusal apply in the circumstances
- Be dated

The College regards the appeal decision as final.

4.9 When an application can be treated as withdrawn

An application can be treated as withdrawn for the following reasons:

1. The member of staff withdraws the application
2. The member of staff fails to attend two meetings
3. The member of staff unreasonably refuses to provide their line manager with the required information

The member of staff withdraws the application

Where a member of staff withdraws an application, they should notify their line manager in writing as soon as possible. They will not be eligible to make a further application for 12 months from the date their application was made.

A line manager who is informed verbally that an application is withdrawn but does not subsequently receive written confirmation should contact the member of staff and request that they confirm their intentions in writing. Following on from this, if written confirmation is still not received, the line manager should confirm the withdrawal in writing.

The member of staff fails to attend two meetings

Where a member of staff misses two meetings without reasonable cause the line manager may treat the application as withdrawn. After missing the first meeting, the line manager should warn the member of staff, when rearranging the meeting, that they risk their application being treated as withdrawn if they miss another meeting without reasonable cause.

The member of staff unreasonably refuses to provide their line manager with the required information

There may be occasions where the line manager is willing to accept a request for flexible working but requires the member of staff to provide them with certain information before they can do so. If an employee unreasonably refuses to provide the employer with the information then the line manager can treat the application as withdrawn.