



Worksmart

This policy applies to all Employees including Teachers and outlines a range of flexible working options

Approved: 1 April 2022

This is an East Lothian Council Policy which has been subject to consultation with the Joint Trades Unions. Any review or amendment by the council will be following consultation with the Trades Unions.

Policy Title	Worksmart
Policy Section	HR Policies
Prepared By /Policy Author	Human Resources
Version Number	V 2.0
Equality Impact Assessment	March 2021
Links to other Council Policies/ processes	Code of Conduct Policy Data Protection Equal Opportunities Flexible Working Hours Policy Health and Safety legislation Homeworking Policy IT Acceptable Use Policy Information Security Policy Information and Records Management Policy Managing Attendance Policy Recruitment and Selection Policy The East Lothian Way Working Time Regulations
Approved By	Council
Date Approved	29 March 2022
Review Date	March 2022
Date of next Review	April 2023
Policy Lead	Team Manager - HR Operations, People and Council Support

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1 Introduction

- 1.1 East Lothian Council recognises the mutual benefits of having a flexible, effective workforce to deliver the best services to our customers, whilst enabling employees to balance their personal, home and work responsibilities more effectively, with a view to achieving greater job satisfaction, motivation, morale and productivity.
- 1.2 This Policy, refers to types of flexible working arrangements regarding a change to the employee's work pattern, hours or location of work which is different from their existing one, appreciating that homeworking arrangements can be either permanent, contractual (see Homeworking Policy) or hybrid working (within this Worksmart Policy), which is a flexible, non-contractual working arrangement recognising that certain job roles may require this additional flexibility and that employees may not want, or be ready to commit to contractual homeworking.
- 1.3 This Policy also refers to the concept of hot-desking. Hot-desking arrangements will be made available subject to local arrangements and to support both contractual homeworking (when an employee may be required to come into the office base) and non-contractual hybrid working. Trade Union colleagues should be consulted as early as possible where service changes involve hot-desking arrangements being planned.
- 1.4 This policy outlines how the council will manage employee requests for flexibility in working arrangements, taking into account of the demands of the service, customer needs and job role requirements and limitations.
- 1.5 Requests for contractual flexible working must be made on the Application Form at Appendix 3, with Hybrid working requests discussed and agreed using Appendix 4.

2 Scope

- 2.1 This policy applies to all current and new council employees including those posts covered by the Scottish Negotiating Committee for Teachers, regardless of length of service, who, in line with the Flexible Working Regulations 2014, are entitled to make a written request to work flexibly, with only one request every 12 months permitted.
- 2.2 In the spirit of fairness and equality of access, there is no minimum continuous service requirement for employees who wish to request flexible working.
- 2.3 All approved arrangements will be reviewed as required to ensure the needs of the service continue to be met, as well as the employee's, and may be subject to change giving 12 weeks' notice either by the council or employee for contractual arrangements; and 4 weeks' notice either by the council or employee for non-contractual arrangements i.e. Hybrid working.

3 Purpose and Aims

- 3.1 The purpose of this policy is to outline the range of flexible working options aimed at retaining, attracting and supporting a skilled, effective workforce to deliver all East Lothian Council services.
- 3.2 The aims of this policy are to enable continuous improvement and promote new ways of working which align with the East Lothian Council Plan, the Asset Strategy and Management Plan and Climate Change strategy. For example reducing office accommodation costs through home working and hot-desking, which may also reduce travel and heating/lighting costs.

4 Legislation

- 4.1 Under the under the statutory right in the Employment Rights Act 1996 and Flexible Working Regulations (2014), all employees have a statutory right to request flexible working; not only those who are parents and carers.
- 4.2 Additional legislation relating to flexible working includes Health and Safety at Work Act 1974; Management of Health and Safety at Work Regulations 1999 (SI 1999/3242), Working Time Regulations 1998 (SI 1998/1833) and The Working Time Regulations 1998.
- 4.3 The Equality Act 2010 legally protects people from discrimination in the workplace and employees with protected characteristics including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race or ethnicity, religion or belief, sex or, sexual orientation will be supported in accessing this policy.

5 Principles

- 5.1 This policy will be applied fairly and transparently to all employees, and all requests fully and objectively considered in relation to the employee, colleagues and service users. The approach will focus on how services can be maintained or improved through the specific Worksmart arrangement requested, with due consideration given to the reason for the request.
- 5.2 With the exception of non-contractual hybrid working all flexible working arrangements can be approved on a temporary (e.g. 6 or 12 months) or permanent basis, and will be subject to a trial period of up to a maximum of 12 weeks.
- 5.3 There is no contractual entitlement for employees to have their request approved. Where however a contractual flexible working request is approved, the agreed changes will constitute a variation to the employee's contract of employment, with the exception of non-contractual Hybrid Working, the terms of which will be agreed in the Hybrid Working Agreement (see Appendix 4).
- 5.4 The line manager will be responsible for deciding whether a request for contractual Worksmart arrangements can be supported on a temporary or permanent basis, taking into account such factors as the employee's role

and performance, the line manager/supervisor's support, and the operational needs of the service. If a temporary or permanent change cannot be supported, the line manager should consider if the request can be supported on a trial basis. If successful, this may subsequently be made temporary or permanent by agreement between the employee and line manager.

- 5.5 Any contractual flexible working arrangement approved on a trial basis should not be extended beyond 12 weeks.
- 5.6 Any flexible working arrangement approved on a temporary basis should not be for a period of less than 12 weeks or more than 12 months, following which the employee will normally revert to previous contractual arrangements. A temporary arrangement can then be agreed on a permanent basis or can be refreshed as a temporary arrangement, providing the overall period does not exceed 12 months.
- 5.7 All individual Worksmart contract variations will be subject to review in light of changing operational service needs or if the working arrangement is becoming detrimental to service delivery. At such time, the council will reserve the right, following employee consultation and a minimum of 12 weeks' notice, to end the existing arrangement and may explore other possible working arrangements.
- 5.8 Regular supervision and support and Performance Review and Development arrangements must continue to be in place to ensure satisfactory work performance is maintained, employees are supported, and that appropriate training and development is undertaken.

6 Responsibilities

- 6.1 The *line manager* is responsible for:
 - 6.1.1 Fostering a culture of trust in working relationships.
 - 6.1.2 Fully, fairly and objectively considering all flexible working requests and seeking to accommodate employees wherever possible, subject to service provision requirements and implications for customers, department, team and co-workers.
 - 6.1.3 Ensuring frank, open and honest discussion in relation to flexible working requests, to reach mutual understanding and beneficial solutions.
 - 6.1.4 Considering alternative options which may provide some level of flexibility requested by the employee in cases where the original flexible working request cannot be justifiably supported.
 - 6.1.5 Seeking approval from the Service Manager in relation to their decision to support or deny a request.

- 6.1.6 Providing a written response to the flexible working request within 12 weeks, earlier if possible, providing a clear and detailed explanation of the reasons for the decision, whether approving or denying the request.
- 6.1.7 Ensuring robust management arrangements are in place for employees who work flexibly ensuring inclusion in communications, business and team meetings as required.
- 6.1.8 Advising employees of any difficulties arising from their Worksmart arrangements, so that these can be addressed.
- 6.2 The **employee** is responsible for:
 - 6.2.1 Working with management to facilitate a culture of trust.
 - 6.2.2 Outlining and discussing flexible working requests frankly, openly and honestly with their manager to reach mutual understanding and beneficial solutions.
 - 6.2.3 Fully considering the implications of any flexible working request in relation to effective service provision and impact on their own and their team's performance.
 - 6.2.4 Actively engaging in team, individual and corporate communications, regular one to one support and supervision meetings, Performance review and Development meetings and attending regular team and business meetings as required.
 - 6.2.5 Advising their manager of any difficulties arising from their ongoing approved flexible working arrangement, so that these can be addressed and remedied.
 - 6.2.6 Making themselves aware of the terms of this policy recognising flexible working arrangements may require to be amended/ withdrawn subject to the needs of the Service, and following full discussion and notice.

7 Requesting Flexible Working

- 7.1 Requests for flexible working must be submitted in writing by the employee, by completing the Flexible Working Request Form at Appendix 3 and Appendix 4 for hybrid working.
- 7.2 The line manager will be responsible for deciding whether a request for flexible working can be supported taking into account factors, as outlined in Appendix 2, including requirements of the employee's job role, employees performance within their role, supervision and support available by the line manager, impact on co-workers and service users and operational needs of the service.

- 7.3 All flexible working requests supported by the line manager may require to be formally approved by the Service Manager.
- 7.4 Employees have the right of appeal against the line manager's decision. Any appeal against a refusal to agree to a flexible working request will be to the Head of Service who may nominate another senior manager e.g. Service Manager or Head of Service not previously involved to hear the appeal on their behalf.
- 7.5 All individual contract variations made under the terms of this policy will also be subject to review in light a service review or changing operational service needs or where the flexible working arrangement is becoming detrimental to service delivery and the needs of the service.
- 7.6 At such time, the council will reserve the right, following discussion with the employee and up to a maximum of 12 weeks' notice, to end the existing contractual arrangement, and to explore other possible working arrangements, which may involve the redeployment process.

8 Procedure

- 8.1 This procedure will apply to all new and existing employees requesting a flexible working arrangement. The specified timescales may only be varied by mutual agreement with both parties.
- 8.2 The employee/new start will outline the request, in writing, completing the Flexible Working Request form (as attached at Appendix 3 or Appendix 4 for Hybrid Working) and submit this to their line manager.
- 8.3 The line manager will arrange for the request to be initially discussed with the employee within 28 calendar days of receipt of the request; and concluded at this point, wherever practicable.
- 8.4 The Line Manager will provide a written response to a request within 14 days of the final meeting. This notification will advise: -
- 8.4.1 Support of the request or modifications (as discussed with the employee) along with details of the conditions attached to the offer of alternative working arrangements; or
- 8.4.2 Not supporting the request when the Line Manager will provide an explanation of the following business reasons for the request not being supported.

These may include:

- Burden of additional costs
- Detrimental effect on ability to meet service need and customer demand
- Inability to re-organise work among existing employees
- Detrimental impact on work colleagues

- Inability to recruit additional employees e.g. backfilling reduced hours
 - Detrimental impact on work quality and/or performance
 - Insufficiency of work during the period the employee proposes to work
 - Proposed or planned structural changes (e.g. where a service review is about to commence)
- 8.5 There may be circumstances where a line manager requires more time in order to make a decision with regard to an application request e.g. where a service review is imminent or underway or where there are multiple requests or changes to staffing. Having been discussed and agreed with the employee, any delay will be confirmed in writing by the manager outlining the revised timescales which must be kept under regular review for the decision and notification arrangements.
- 8.6 Should an employee's request be refused, by both the line manager and Service Manager, before progressing to formal appeal, the manager and employee can seek advice on resolving the matter from an appropriate member of the HR Team.

9 Appeal Process

- 9.1 The employee may formally appeal against decisions in regard to refusing flexible working applications or decisions relating to ending the flexible working arrangement in writing to their Head of Service within calendar 14 days of receiving the notification of the decision from their manager. The reasons for any appeal should be clearly outlined.
- 9.2 A hearing will normally be convened within 14 days of the appeal being received. The Appeal Panel will normally consist of a manager more senior than the service manager who made the original decision and a member of the HR Team, neither of whom should have been involved in the original decision making.
- 9.3 The employee may be accompanied by a current work colleague or accredited Trade Union Representative at the hearing. The hearing will be chaired by a Head of Service (or their nominated senior manager representative).
- 9.4 The final decision will be given in writing within 14 days of the appeal being heard. Following which, there will be no further right of appeal.

10 Withdrawal of Application

- 10.1 The council will treat an application as withdrawn if the employee has:
- Notified their line/service manager in writing that their application is being withdrawn;
 - Failed, without reasonable cause, to attend a meeting/Appeal Hearing convened under the procedure on more than one occasion; or

- Refused, without reasonable cause, to provide information which the line manager considers necessary to assess whether the employee's request to work flexibly can be granted.
- The line manager will confirm the withdrawal of the application in writing to the employee, unless the employee has provided written notice of the withdrawal.

11 Review of Policy

- 11.1 This is a Council Policy which is subject to review and amendment by the Council following consultation with the recognised Trade Unions.

Head of Corporate Support
April 2022

TYPES OF FLEXIBLE WORKING

1 Annualised Hours

- 1.1 Annualised hours refers to all contracted hours, full or part-time, being worked over a whole year rather than per week. The hours may be varied across 52 weeks of the year or hours may be reduced to zero in some weeks with additional hours worked in other weeks.
- 1.2 Salary will normally be paid in equal monthly or weekly payments by averaging the annual salary over the year, with annual and other forms of leave calculated on an annual basis, according to hours to be worked.
- 1.3 Approved overtime working would apply only once the contractual hours for that particular time period having been worked.
- 1.4 Should the employee leave the post held during the working year, their working hours, leave provision and other relevant conditions of service will be reconciled based on the actual hours worked during the period and any monies will be adjusted accordingly.

2 Compressed Hours

- 2.1 Compressed hours is defined as a working pattern that reallocates the normal weekly hours of work and 100% of the work activity into fewer, longer blocks of time, taking account of health and safety and Working Time Regulations.
- 2.2 The nature of the employee's work activity, the operational needs of the service and service users, the impact on other employees and the impact on the employee's health, safety and wellbeing as a consequence of working longer periods of time are all key considerations.
- 2.3 The pattern of work will be agreed by the Line Manager to meet the needs of the service and must not result in increased cost to the council in terms of allowances for unsocial hours, overtime payments etc.
- 2.4 Annual and other forms of leave will be calculated on the basis of hours/minutes to accommodate variations in the length of the working day and the number of days worked.
- 2.5 Employees working or seeking to work compressed hours may request to work flexibly in accordance with the Council's Flexible Working Hours Policy either at the time of application under the terms of this Policy or at a later date, by submitting an application under this Policy.

3 Variation in Hours

- 3.1 This arrangement adjusts the normal contractual hours of work and/or varies an existing work pattern (e.g. adjust the start/finish times), depending on the operational needs of the service, with costs of any

increase in working hours to be contained within the existing staffing budget.

- 3.2 Where contractual hours are reduced or increased, the employee's salary, terms and conditions e.g. annual and other types of leave and will be applied pro-rata from the date the revised working hours are implemented.
- 3.3 Employees working specific fixed hours as a result of an agreed variation in hours will not normally be eligible to participate in the Flexible Working Hours Policy.

4 Part-time working

- 4.1 A part-time worker is someone who works fewer hours than a full-time worker. There is no specific number of hours that makes someone full or part-time, but a full-time worker within the council will usually be contracted to work 35 or 37 hours per week depending on terms and conditions of service. Part-time working hours vary substantially and these can be arranged into work patterns that suit service delivery needs.
- 4.2 All conditions of employment, including salary, annual and other forms of leave will be applied pro-rata dependent on the number of hours worked.

5 Contractual Homeworking

- 5.1 Contractual homeworking is a flexible working arrangement whereby employees have an employment contract stating home as their base of employment. It is a work arrangement whereby the employee conducts most of their work from home, recognising the need for occasional remote working at alternative council offices, work locations and the need to attend external meetings as required.
- 5.2 Contracted homeworkers do not therefore have a designated office desk or workspace, however may arrange access to shared office desks with the approval of their line manager.
- 5.2 The option to be contracted to work from home may be also confirmed at recruitment stage, and can be requested by the employee or suggested by the manager as part of new ways of working to align with the East Lothian Council Plan, the Asset Strategy and Management Plan and the Climate Change strategy.
- 5.3 The Homeworking policy, outlines the process and arrangements specifically for *contracted* homeworkers.

6 Hybrid Working

- 6.1 Here at East Lothian Council, hybrid working is defined as a type of non-contractual flexible working arrangement where the employee divides time between their divides time between their contracted council base and working at home/remote working (e.g. visiting sites/clients/service users). Unlike contractual homeworking there is no ongoing right or entitlement to be permanently based at home, there is no homeworking allowance paid

for working from home and no additional workstation equipment will be provided at home.

- 6.2 This non-contractual flexible working arrangement refers to employees who have a contracted council office base however are authorised to work more flexibly at home on a hybrid basis for periods of their contracted working hours subject to agreement with the line manager. Where hybrid working arrangements result in employees regularly working mainly from home for more than 60% of their contracted working hours, the council's Homeworking policy, which outlines contractual homeworking arrangements, should be considered.
- 6.3 Under this hybrid arrangement, working patterns and days may be fully flexible either on an as and when required/workable arrangement, or alternatively work patterns could be more fixed e.g. set days working out of the office and from home, subject to the needs of the service, line management agreement and consideration of optimisation of availability of shared/bookable desk arrangements. This should all be discussed and agreed when completing Appendix 4.
- 6.4 Hybrid working arrangements can only be considered for employees who have a council supplied laptop and appropriate workspace at home that meets hybrid working H&S risk assessment requirements. Broadband access at home will also be required.
- 6.5 Where employees do not have the required workspace and equipment to work safely at home, hybrid working arrangements are unlikely to be supported due to H&S requirements.
- 6.6 The hybrid working arrangement will require an initial H&S risk assessment, with periods of hybrid working being considered and agreed locally by the relevant line manager taking account of impact on colleagues and service delivery. The Health & Safety Assessment checklist can be found [here](#) .
- 6.7 No variation of employment contract will be required to accommodate hybrid working in relation to the employee's contractual terms and conditions of employment. However, a Hybrid Working Agreement will be required which outlines the local working arrangements agreed between the manager and employee (see Appendix 4) and outlines requirement for a minimum of 4 weeks' notice to end the arrangement.
- 6.7 Employees who are supported by their line manager to undertake any hybrid working must all complete the DSE Personal Assessment Form and return to their line manager prior to undertaking any hybrid working. The DSE Personal Assessment form can be found [here](#)
- 6.8 Where H&S or performance issues arise during hybrid working arrangements, employees may be asked to return to their office base for all contracted hours, to ensure support is put in place until such times as issues are resolved.

6.9 Additionally, line managers should consider whether further assessments are required via Sphera Cloud, the council's Health and Safety Management System, for example lone working assessment. Further information re Sphera Cloud can be found [here](#)

7 Flexible Working Hours (Flexitime)

7.1 The Flexible Working Hours Policy [here](#) outlines Flexitime arrangements that provides flexibility by enabling eligible employees to vary their daily working hours and by allowing them, subject to the needs of the service and with the agreement of their line manager, to take time out of their normal working day to deal with personal matters.

Flexible Working Requests - Considerations for Managers

This list is not comprehensive but includes:

- 1 Service Users & Customer Factors** (including other teams/sections, and service users)
 - Can customer service focused provisions be maintained or improved by implementing the requested flexible working arrangements?
 - Is customer demand tied to certain hours of the day?
 - Does the proposal fit with current and foreseeable needs of the service?

- 2 Employee Related Factors**
 - Is work performance satisfactory, personal motivation to deliver under new arrangements, commitment, morale and productivity; initiative;
 - Time/workload management; communication, supervision arrangements and implications for monitoring of work performance;
 - Performance related issues previously discussed between employee and their manager; social isolation; lone working; reduction in travel time and or costs;
 - Requirement for on-the-job training;
 - Health, safety and wellbeing issues that may apply to the employee such as lone working, working pattern and length of work periods/rest breaks, suitability of work station.

- 3 Team Factors**
 - Including morale and impact on other team members;
 - Productivity;
 - Whether sufficient team members are available at all times;
 - Requirement for regular joint working;
 - Requirement for regular informal supervision.

- 4 Job/Location Factors**
 - Can all of the duties be performed effectively from the location/in the work pattern envisaged?
 - Are there information security issues, for electronic/non- electronic data?
 - Is access to specialist information/equipment/reference materials or significant face-to-face contact with colleagues or customers required?

- 5 Cost/Saving and Service Improvement Factors**
 - Including those associated with ICT equipment; travel time/expenses; workplace properties;
 - Increased service availability to customers

- 6 Environmental Factors**
 - Reductions in energy consumption, carbon footprint (e.g. through reduced travel).



FLEXIBLE WORKING REQUEST FORM

Form can be found [here](#) on Intranet

***Please Note:** As only one request every 12 months permitted, there should be at least 12 months between subsequent applications (see 2.1 above)

Full Name of Employee	
Employee Number	
Job Title and Work Location	
Line Manager Name and Title	
Business Unit and Department	
Start date with East Lothian Council	
Date request submitted	
<p>Type of flexible working request (please tick box): Annualised Hours <input type="checkbox"/> Compressed Hours <input type="checkbox"/> , Variation in Hours <input type="checkbox"/> Part-time Working <input type="checkbox"/> or Contractual Homeworking <input type="checkbox"/></p> <p>Note: For Hybrid Working requests complete only Appendix 4</p>	
<p>Please give details of the following in support of your application:</p> <p>1. Your current work pattern/arrangement:</p>	

2. The date on which you are requesting that the change take effect:

3. The benefits of this new working arrangement:

4. How any detrimental implications of this requested change could be mitigated:

5. Effects the changes requested may have on your Team /Department

6. The change being requested i.e. the pattern of working you wish to apply for:

7. How any such effect might be dealt with by your Business Unit/Department:

Statement of Line Manager (providing a clear and detailed reasons for the decision):

Where application supported: confirm whether the Flexible Working Hours (Flexitime) Policy will be applicable to the new arrangements:

Name of Employee:

Designation:

e-signature:

Date:

Application Recommended to be supported by Line Manager

YES or NO (Please Tick)

Name:

Designation:

e-signature:

Date:

Reasons for Decision:

Application Approved by Service Manager (if required)

YES or NO (Please Tick)

Name:

Designation:

e-signature:

Date:

Reasons for Decision:

(Note: Written response to the employee is also required - see 6.1.6)

Line Managers must forward a copy of this signed form, whether or not request is approved to Human Resources at hr@eastlothian.gov.uk for retention on the employee's file.

A Change of Contract form will also be required.



HYBRID WORKING AGREEMENT
 TO BE COMPLETED BY EMPLOYEE AND LINE MANAGER
 Form can be found [here](#) on the Intranet

To be completed by Employee

Employee Name	
Employee Number	
Job Title	
Department:	
Division:	
Business Unit:	
Contracted Place of Work i.e. council office/workplace	
Contracted Weekly Hours of Work	

To be Completed by Manager

Have H&S Risk Assessments been satisfactorily completed and actioned?	
Details of workspace arrangements at home (e.g. suitable space, desk, chair, confidentiality, broadband etc.)	
Details of hybrid working arrangements e.g. days/hours to be worked from home e.g. set number of hours or days per week or extent of flexibility (Note - Use this section to outline any specific provisions /constraints agreed)	
Any further relevant information.	

The hybrid working arrangement will commence with effect from *date (*insert end date where appropriate), will be reviewed 6 monthly and is subject to 4 weeks' notice of ending by the line manager or employee.

I understand that this is a non-contractual flexible working arrangement under the terms of the council's Worksmart Policy and that approved arrangements will be reviewed as required to ensure the needs of the service continue to be met.

I have undertaken a health and safety risk assessment and DSE assessment as required on my home workspace. I agree to inform my line manager immediately of any issue or conditions, which may affect the health, safety and welfare of myself or others.

Where H&S or performance issues arise during hybrid working arrangements, employees may be asked to return to their office base for all contractual hours to ensure support is put in place until such times as issues are resolved.

I confirm that I have a council supplied laptop and appropriate workspace at home that meets hybrid working H&S risk assessment requirements, including suitable broadband access.

I understand that hybrid working arrangements are voluntary and will not attract any homeworking allowance payment by way of expenses.

I agree to allow access to my home, at a mutually convenient time, as is reasonable during work time to designated council employees where essential or required e.g. my line manager, risk assessors and IT.

I will operate in accordance with the Council's Health and Safety Policy, which I have read and understood.

I will operate in accordance with the council's Data Protection Policy and Information and Records Retention Policy, and agree to ensure that any work related information used in the course of hybrid working will be appropriately protected. I am aware that I have a legal responsibility for the information and can be held personally responsible for any misuse.

I have informed my landlord/mortgage/insurance company that I intend to use my home for business purposes and obtained any authorisation required.

I understand when working at home, childcare or other caring/domestic responsibilities cannot be undertaken at the same time as I am working. Should the need for these responsibilities arise during my working time at home, I will inform my manager and arrange appropriate time off.

I understand that the Hybrid Working Agreement does not affect my status as an employee.

I understand the arrangement for ending the Hybrid Working Agreement by myself or by the Council i.e. by providing 4 weeks' notice.

Please sign to confirm that you have read, understood and agree to the conditions above relating to Hybrid Working.

Name of Employee:	
e-signature of Employee:	Date:
Application Recommended to be supported by Line Manager	
YES <input type="checkbox"/> or *NO <input type="checkbox"/> (Please Tick)	
Name:	Designation:
e-signature:	Date:
* Reasons for Decision where not supported:	

The Line Manager should retain a copy of this agreement, provide a copy to employee and send a copy to Human Resources at hr@eastlothian.gov.uk for retention on the employee's file.