



# Flexible Working Hours Policy

This policy outlines Flexitime arrangements and applies to the Local Government Employee Group and relevant SNCT Associated Professionals

22 June 2021

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

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## **1. Introduction**

- 1.1 East Lothian Council aims to put our customers at the heart of everything we do, whilst recognising that our employees have to manage the balance between work commitments, family responsibilities and lifestyle choices. The Council supports the principle of flexible working practices subject to service needs.
- 1.2 The Flexible Working Hours policy forms part of a range of flexible working policies e.g. Homeworking and Worksmart and the aim of this policy is to enable a more flexible approach day to day in delivering customer focused council services whilst balancing the personal needs of employees within and outwith work.
- 1.3 Managers are responsible for overseeing employees to ensure the delivery of services and therefore, to determine the working hours of employees on the basis of customer and business need; employees cannot dictate their own working hours and any employee requiring the additional flexibility afforded within this policy must get approval in advance.
- 1.4 Fair access in the application of this policy is dependent on the co-operation and goodwill of employees working together.
- 1.5 All employees are expected to consider the broader needs of the service, service users and the potential impact on colleagues when arranging working time adjustments under this policy, consulting with their colleagues and line manager as required.

## **2. Principles**

- 2.1 Flexible working hours under the terms of this policy must support and enable delivery of key business objectives and outcomes which support all customers and service users.
- 2.2 Employees are generally expected to meet the requirements of their roles within their normal daily contracted hours wherever possible.
- 2.3 Employees should only accrue flexi credit whilst undertaking core work priorities and supporting customer needs.
- 2.4 Flexi-leave half or whole days can be requested by employees.

- 2.5 The opportunity to deviate from standard office hours and operate a pattern of flexible working hours across the extended bandwidth of working hours between 7am to 9pm will be determined by the appropriate line manager in line with needs of the service.
- 2.6 Under the terms of the Flexible Working Hours policy, for reasons of health, safety and wellbeing, accrual of flexitime working hours should normally be limited to 10 hours maximum per day, other than where exceptionally required.
- 2.7 Access to the flexi-time policy is not a contractual right for any employee and the line manager will be responsible for determining which posts may be eligible to operate under this policy.
- 2.8 It is recognised that not all roles will be suited to flexitime working due to the requirements of that role e.g. some front-line services or where specific work patterns are required.

### **3. Scope**

- 3.1 This policy can be applied to eligible full and part-time employees, subject to the suitability of the job, post-holder and approval by the line manager.
- 3.2 Employees working or seeking to apply to work on a compressed hour's contract will also be eligible to request access to 'Flexitime' working under this Flexible Working Hours Policy. This would be done at the time of applying for compressed working under the council's Worksmart policy.
- 3.3 This policy will **not** normally apply to:
- Employees contracted to work hours outside the flexitime bandwidth of 7.00 am to 9.00 pm
  - Employees whose start and finish times are fixed for the purposes of service delivery e.g. employees in Customer Services, Refuse Collection, Teachers etc.
- 3.4 This policy supports flexibility of working time, including scope to take time out of the normal working day, therefore all routine appointments including Dental, Optician, Doctors' (excluding ante

natal appointments which fall within the maternity provisions) and those related to managing personal matters should be arranged in the employee's own time.

- 3.5 Where required and in order to meet the requirements of the service, Heads of Service, following consultations with Human Resources and Trade Union representatives, may implement temporary restrictions on the operation of the Policy or the temporary suspension of the Policy.

#### **4. Standard Working Hours**

- 4.1 Depending on the service, Standard Working Hours for full-time employees will normally be either 35 or 37 hours per week in line with employee handbook conditions. This will be pro rata for part time employees.

#### **5. Hours of Work**

##### **5.1 Bandwidth**

- 5.1.1 This is the maximum daily period during which employees may have their working hours recorded for the purposes of flexitime; the earliest starting being 7am and the latest finishing time 9.00pm.

##### **5.2 Working Hours**

- 5.2.1 Whilst the normal standard working day is determined within each service, e.g. 9am to 5pm for some office based employees, any recorded working hours for the purposes of flexitime can fall between 7.00am to 9.00pm, with working hours normally limited to 10 hours maximum per day under the Flexitime Scheme (see 2.6).

- 5.2.2 However, service managers are responsible for outlining any set core time periods necessary to ensure customer focused, service delivery requirements. Any set core hours should be approved by the Head of Service, following appropriate employee consultation.

- 5.2.3 Under the terms of this policy, employees are required to attend work on each of the working days where specified in their contract of employment or as agreed with line manager.

- 5.2.4 Employees are required to arrange their working times e.g. start and end times, in consultation with colleagues and their manager with

advance approval required from their line manager to take either a half or whole day flexi-leave.

### **5.3 Normal Working Day**

5.3.1 Services to members of the public and all service users must be available throughout the normal working day. The time period that will be defined as the normal working day will be subject to local agreement to suit the specific service delivery requirements in each Section/Unit/Division.

5.3.2 Arrangements will be made, as appropriate, to ensure that staffing levels are maintained during the locally agreed service delivery times.

### **5.4 Breaks/Rest Periods**

5.4.1 A minimum unpaid break of 30 minutes per day must be taken for full time employees and those working 6 hours or more per day. Where service delivery permits lunch breaks, these will normally be taken between 12.00 noon and 2.00pm and will not normally exceed 2 hours, but the timing and duration of lunch breaks may be varied in advance by agreement with the line manager and colleagues. Services may operate local arrangements.

5.4.2 In line with Working Time Regulations, a rest period of at least 11 hours must be taken between an employee's finishing time on one day and their starting time on the next day.

### **5.5 Settlement Period**

5.5.1 A Flexitime settlement period is four weeks.

### **5.6. Credit Hours**

5.6.1. Credit Hours are the number of hours worked in excess of the standard hours for the flexitime settlement period i.e. for full-time employees, more than 140 (148) hours. This will be pro-rata for part-time employees. The calculation will be as follows:

$$\frac{\text{Total contractual hours over four week settlement period} \times 15 \text{ (max credit hours)}}{140 \text{ (148) hours}}$$

5.6.2 A maximum credit balance of 15 hours may be carried forward to the next settlement period (pro-rata for part-time employees). Any

credit balance above 15 hours cannot be carried forward into the following flexitime period and will be lost.

## **5.7 Debit Hours**

5.7.1 Debit Hours are the number of hours worked below the standard contracted hours for the settlement period i.e. for full-time employees, below 140 (148) hours. This will be pro-rata for part-time employees. The calculation will be as follows:

$$\frac{\text{Total contractual hours over four week settlement period} \times 7 \text{ (max debit hours)}}{140 \text{ (148) hours}}$$

5.7.2 A maximum debit balance of 7 hours (pro-rated for part-time employees) is allowed at the end of the settlement period.

5.7.3 An employee presenting any amount of debit balance for 3 consecutive settlement periods will normally be removed from the provisions of this Policy and placed on fixed hours of work.

5.7.4 Any debit of more than the maximum permitted amount of hours at the end of the settlement period will be regarded as unauthorised absence. This will normally result in use of annual leave entitlement or a deduction from salary in the following pay period and may lead to disciplinary action.

## **5.8 Credit/Debit Balances on Leaving**

5.8.1. Upon leaving East Lothian Council, employees should ensure flexitime is managed as any credit balance will be forfeited, with debit balances resulting in deduction from the employee's final salary payment.

## **6. Flexi-Leave**

6.1 Flexi leave must be requested and approved in advance of the leave being taken.

6.2 Line managers reserve the right to decline requests for flexi-leave, particularly for any working day that requires increased cover, this includes Fridays and Mondays.

6.3 During any one flexitime settlement period, flexi-leave may be authorised either as full or half days, up to a maximum of 2 days per

settlement period, pro-rata for part-time employees. This limit must not be exceeded under any circumstances.

- 6.4 Approval of a flexi-leave request is at the discretion of the line manager and subject to the needs of the service. Where possible five days' notice of requests would assist in managing services, however it is recognised that employees may ask for flexi-leave at short notice, which managers may authorise subject to service needs.
- 6.5 Flexi-leave will not be approved substantially (e.g. months) in advance of the half or full days requested as service requirements need to be assessed close to the time.
- 6.6 Circumstances may arise whereby annual leave requests for blocks of time will be given priority over flexi-leave requests.
- 6.7 Employees may apply to use flexi-leave to supplement or replace annual leave when booking holidays, subject to having sufficient flexi credit available.

## **7. Other Authorised Absences**

- 7.1 The Policy allows for considerable flexibility and therefore employees are expected to plan and arrange ***routine*** personal appointments or business in their own time see 3.4 above. However, time credit will be given for the following, in line with council policies, which should be recorded on flexitime sheets:
  - Annual Leave
  - Public Holidays
  - Sickness Absence
  - Approved Special Leave including Maternity Leave, Maternity Support Leave/Paternity Leave, Parental Leave, Adoption Leave, Bereavement Leave, Leave for Illness of a Dependent, Hospital appointments
  - Authorised Trade Union Duties
  - Approved Time Off in Lieu of Additional Hours Worked
  - Jury Duty
  - Other authorised absences under council policies.
- 7.2 Time required to attend an approved learning/development activity, either in house or external, will be considered as working time and should be recorded accordingly. An employee may undertake their

normal duties before and/or after learning/development activities and record their total working hours for the day in the normal way.

## **8. Overtime**

- 8.1 Hours worked during the course of the working week and recorded as flexi-time would not normally trigger overtime payments as working beyond contractual hours would have to be pre-authorized for overtime payments to be applicable.
- 8.2 Very exceptionally, however, circumstances may arise where particular working arrangements need to be applied e.g. where staffing levels in a team/service have fallen below minimum levels required to maintain services to an acceptable level or where short-term work demands require a substantial increase in staffing resources.
- 8.3 An employee with a debit flexitime balance must not be offered paid overtime until the debit is cleared.
- 8.4 Hours worked as overtime should be recorded separately on the normal Overtime Working Claim Form. Payment will be made in accordance with the employee's terms and conditions of employment.
- 8.5 Employees should refer to the Management of Overtime Policy, the terms of which apply to overtime working.

## **9. Employees' Responsibilities**

- 9.1 Employees are responsible for managing their own time within the rules of this Policy and are required to co-operate with colleagues and their line manager to ensure that appropriate staffing levels and good team-working relationships are maintained at all times.
- 9.2 Employees must only accrue flexi credit time to deliver work priorities, avoiding unnecessarily accruing flexi credit hours.
- 9.3 Employees must ensure that they record their time accurately and honestly. This should be done on the standard Flexitime Recording form [here](#) then electronically on the MyHR portal once fully operational.
- 9.4 Employees must ensure they have the support of their supervisor/line manager and have consulted with colleagues to ensure relevant cover

etc. if varying their standard working hours e.g. a later start, an earlier finish, time away from work during normal working hours.

- 9.5 Employees must ensure that their line manager approves flexi-leave from work prior to taking the flexi-leave.
- 9.6 Travel to and from work is an employee's personal responsibility. In circumstances where an employee either arrives late or leaves early because of bad weather, public transport difficulties etc., credit will not normally be given, unless at the direction of the Head of Service/CMT, and actual starting/finishing times will be recorded.
- 9.7 Approved flexi credit may be applied where the council decides to close establishments, for example due to exceptional weather conditions. This arrangement would be confirmed by the line manager.

## **10. Line Managers' Responsibilities**

- 10.1 Line Managers must ensure appropriate staffing levels are maintained to meet the needs of the service and ensure cover is available at all times to meet the demands of the service.
- 10.2 Line Managers must ensure fairness and consistency for all employees in relation to applying the benefits of the Policy, particularly in regard to consideration of flexi-leave requests.
- 10.3 Line Managers must monitor time recorded by employees and ensure that all employees are complying with the rules and obligations of the Policy.
- 10.4 Line Managers must ensure that all employees are made aware of the Policy.

## **11. Supervision**

- 11.1 All employees participating in the Flexible Working Hours policy will have their records checked and signed off by their manager with records held by departments. Any discrepancies found will be investigated as required and appropriate action taken.

## **12. Misuse of the Policy**

12.1 This Policy is based on mutual trust. Any misuses of the policy will be considered to be misconduct and will be treated as a disciplinary matter in accordance with the council's relevant Disciplinary Procedure.

12.2 The result of any such proceedings may result in withdrawal of the employee from the policy, either temporarily or permanently, or further disciplinary action up to and including consideration for dismissal.

12.3 Examples of misuse of the policy may include:

- Not adhering to times agreed with line management for attending work.
- Building up credit during periods when there is little or no work required or available.
- Being present at work and not being productive.
- Taking flexi-leave without prior approval

## **13. Young Workers**

13.1 This refers to someone above the minimum school leaving age but below the age of 18 years. In order to ensure compliance with the Working Time Regulations, a Young Worker may not ordinarily work more than 8 hours per day and 40 hours per week. These hours cannot be averaged out and there is no opt-out available.

13.2 A Young Worker must also have 30 min break after a 4.5 hour period and have a minimum rest break of 12 hours between consecutive days of work.

13.3 Line managers must ensure that these provisions are applied to any Young Worker.

## **14. Appeals**

14.1 Employees have the right of appeal should they wish to appeal a decision to withhold or withdraw participation in the Policy. The following procedure will be followed:

- An employee may lodge an appeal with the Head of Service within 14 days of the date on which the manager's decision is given;

- The appeal must be in writing, set out grounds of the appeal, and be dated;
- The Head of Service, or nominated senior officer, will aim to hear the appeal within 14 days of the date of the employee lodging the appeal.

## **15. Review**

15.1 This Policy is a formal council policy and may be reviewed by the council, in consultation with the Trade Unions, at any time and in the light of operational requirements.

### **Head of Corporate Support**

June 2021