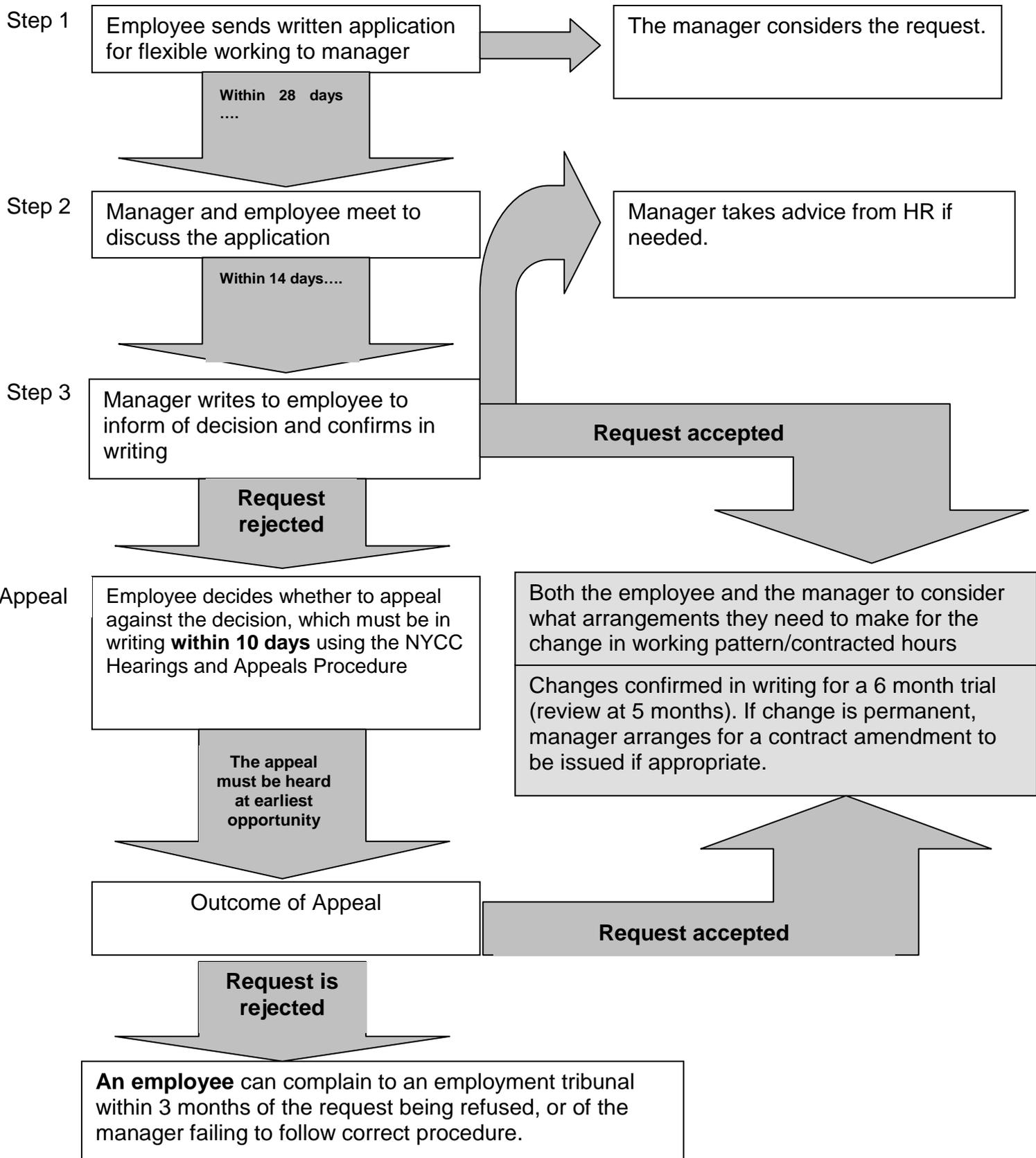

Flexible working policy and procedure

Updated June 2014

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Flowchart: Requesting Flexible Working

NB – this process must be completed within 3 months of receipt of the request



Flexible working policy and procedure

Scope

- 1.0 The Flexible Working Procedure applies to all employees of the County Council, unless they are specifically excluded by reason of a separate policy and procedure, for example those employed directly by schools under the Local Management of Schools arrangements.
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Statement of commitment

- 2.0 NYCC is committed to the development of innovative working practices in order to achieve excellence in service provision and work life balance for its staff. Flexible working offers different ways of working that can achieve both of these objectives, where there is a genuine business case for change.
- 2.1 A request can be made for a variety of reasons. All requests will be given the same reasoned consideration based on the merits of the business case. However, in the event that a request is refused, employees who do not have a statutory right will not have the same rights to complain to an employment tribunal. In addition, where two or more employees within one team submit a request, priority will be given to the employees with the statutory right.
- 2.2 NYCC may ask employees to change the way they currently work, in order to support improvements to service delivery and efficiency. The development of a culture of flexible working requires every employee to be prepared to consider how he or she can do their job differently, when the need arises.
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Introduction to flexible working

- 3.0 This procedure implements the statutory legislation, and supports managers seeking to implement different working practices. It covers both the perspective of the employee who wants to change their working hours, and the manager who initiates the change for operational reasons.
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The right to request flexible working.

- 4.0 The right to request flexible working applies to all employees of the County Council and is a statutory right if they:
- have worked for the Council continuously for 26 weeks before applying and;
 - have not made another application to work flexibly during the previous 12 months

Requesting Flexible Working – for an employee who wishes to change their own working arrangements

Making the Request

5.0 There is a specific process that employees have to follow if they want to make an application. Applications must be in writing and employees should make their request on the [Request for Flexible Working Application Form](#). Employees should make their request at least 3 months before they would like to change their working arrangement.

Considering the request

5.1 The manager should meet with the employee within **28 days** of receiving the request, to discuss the request and any possible options and alternatives if the original request cannot be granted. The employee has the right to be accompanied by a trade union representative or colleague, who has the right to time off for that purpose.

5.2 Managers have a legal duty to consider all applications and to decide whether the desired work pattern can be accommodated within the needs of the business. HR can offer advice to ensure consistency and fairness across the Council.

Confirming the outcome

5.3 The manager must confirm their decision in writing to the employee within **14 days** of the meeting. This may be either to:

- Accept the request;
- Confirm a compromise discussed in the meeting and set a date for a response; or
- Reject the request, explaining the business reasons for refusal (see below), and outline the employee's right to appeal against the decision within **10 days** of receipt of their notification.

5.4 Where recruitment is taking place in an attempt to accommodate a request, the manager should write to confirm this to the employee indicating when a final response to the request is likely. A [manager's record of flexible working](#) should be completed and a copy should be retained on the employee's personnel file

Agreeing a request

5.5 Where a request of flexible working is agreed, the new working pattern will be a permanent change to their terms and conditions unless agreed otherwise. It is generally recommended that any agreed change to the working arrangements should be for a trial period of 6 months. A review of the working arrangements should take place after 5 months.

5.6 The agreement will be confirmed in writing by the manager, describing the new working pattern/contracted time, the agreed start date and the date of the 5 month review. A copy of any agreement should be retained on the employee's personnel e-file and the manager should contact Employment

Support Services so that permanent or temporary amendments can be made to the employee's terms and conditions of employment.

Refusing a request

5.7 A request can be refused legally only for 1 of the 8 business reasons outlined below. The reason(s) for refusal will be explained by the manager to the employee in person, and followed up in writing. An employee must subsequently wait 12 months from the date on which his or her last application was refused, before making a further request should they wish to do so.

Business Grounds for Refusing a Request

- The burden of additional costs.
- A detrimental effect on ability to meet customer demand.
- A detrimental impact on quality
- A detrimental impact on performance.
- The employer is unable to re-organise work among existing staff.
- The employer is unable to recruit additional staff.
- There is insufficient work for the periods the employee proposes to work.
- A planned structural change to your business.

Appeal

5.8 Employees who are unhappy with a manager's reason(s) for refusing their request for flexible working with regard to the statutory criteria for refusal, or who believe the procedure has not been followed correctly may appeal against it.

The employee must give written notice of the appeal within 10 working days of receipt of the letter confirming the refusal of the request and set out, in writing, the grounds for appeal. Appeals will be heard at the earliest available opportunity and reasonable written notice of the date and the arrangements will be given. (Please see the [NYCC Hearing & Appeal Procedure](#)).

Please note that this must be completed within the 3 months from date of request.

5.9 If the Employee is unhappy following the appeal they can take their issues to an Employment Tribunal. However, as an alternative, if both parties agree the ACAS Arbitration Scheme can be used to resolve the dispute.

Requesting flexible working – for a manager who wishes to change their employees' working arrangements

6.0 A manager may consider and implement flexible working arrangements for a group of staff, for example to meet the needs of service users or to achieve business objectives. HR can advise on the impact of changed working patterns or hours on employees' terms and conditions of employment.

6.1 The current working patterns of the team should be considered to identify:

- Numbers of full and part time staff, and job sharers;
 - Contractual working hours of each employee;
 - Core hours of service provision;
 - Time spent out of the office / with clients;
 - Time currently spent in the office;
 - Parts of the work that could be done from home;
 - Tasks that could be organised differently e.g. different work flow or processes, use of IT, increased client contact etc
 - Personal constraints
- 6.2 The flexible working options need to be identified. Some different forms of flexible working are described in Appendix 1 “Types of Flexible Working” Table.
- 6.3 It is important to ensure that:
- There are no unreasonable additional costs incurred other than ICT or equipment set up costs;
 - There is no harmful impact on quality, performance or the ability to meet service users needs;
 - Work and working patterns can be reorganised using existing staff wherever possible.
- 6.4 Draft proposals should be discussed with the team. HR can offer advice if appropriate. Proposals may be refined to reflect the consultation.
- 6.5 When the revised working arrangements are confirmed a review mechanism is recommended, with a formal review at 5 months. Each member of staff should agree to any individual proposed changes to working hours or a change in work location. HR can advise on variations to individual contracts of employment.

Flexible working in reorganisation or relocation

- 7.0 In a larger reorganisation it is useful to draw up a project plan with clearly defined rationale and objectives. HR can advise on the likely impact on employees in relation to terms and conditions of employment, maintaining motivation and performance, and determining any resource implications.
- 7.1 It is important to allow a proper process and time for consultation on the proposals with employees and their representatives. This feedback will inform the planning and implementation of change.
- 7.2 Where a major change in working practices is proposed, affecting a large group of employees, it might be useful to set up a project team incorporating HR, Finance, ICT, Facilities Management and Risk Management, to produce a project plan.
- 7.3 A thorough risk assessment should be undertaken, and a pilot scheme can identify opportunities and threats before large-scale investment is required.
- 7.4 It is good practice to carry out a post implementation review.

Appendix 1

Types of flexible working table

Type of flexible working	Description
Part-time working	Part-time working
Reduced hours working	Working less than the normal contractual hours of a particular job.
Job-sharing	Two employees carry out the duties of a single post. Each job-sharer is employed on a part-time basis, but together they cover the whole post (and usually each others holidays), dividing the pay and benefits pro rata (some exceptions may apply).
Shift swapping	Employees can negotiate working times to suit their needs and Re-arrange shifts amongst themselves or within teams as long as the needs of the business or service are met.
Term time working or term time plus # weeks	An employee who is not employed full year. They are employed to work during school term times and all leave entitlement is taken outside of those weeks. Employees can work term time plus so many weeks.
Home-working or working from a different location	Employees who may work either all or some of their normal contractual hours from home or from a different location .
Annualised hours	The number of hours to be worked is calculated over a year and divided up to fit in with peaks and troughs of work.
Compressed hours working*	An arrangement where employees work their contractual hours over a shorter number of days eg an employee may work longer hours on 4 days, rather than work their hours over 5 days or work 9 longer days over a fortnight.

***Please note that** shift workers and staff at Band 15 and above (or equivalent) are not able to request Compressed hours unless under exceptional circumstances eg for caring reasons for a short term fixed period.