



Derbyshire Constabulary

Flexible Working Policy

POLICY REF. AGB

This policy is suitable for Public Disclosure

Owner of Doc: Head of Personnel

Date Approved: December 2003

Last Review October 2009

Date:

Next Review October 2010

Due:

INDEX

Heading	Page No
1.0 Policy Identification Page	3
2.0 Introduction.....	5
3.0 Policy Statement.....	5
4.0 Guidance and Procedures	5
5.0 Human Rights Compliance	11
6.0 Diversity Compliance	11
7.0 Monitoring and Review	11
8.0 Appeals Process.....	12
9.0 Certificate of Compliance	12
10.0 Appendices	13

1. Policy Identification Page

This Policy has been drafted in accordance within the principles of Human Rights, Race Relations, Sex Discrimination and Disability Discrimination Legislation. Public Disclosure is approved unless otherwise indicated and justified.

POLICY TITLE:	Flexible Working
REGISTRY REFERENCE NO:	05/039

POLICY IMPLEMENTATION DATE:	Dec 2003
POLICY REVIEW DATE:	October 2010

DEPARTMENT/DIVISION RESPONSIBLE:	Personnel		
POLICY OWNER:	Head of Personnel		
LAST REVIEWED BY:	Nicola Smith	DATE LAST REVIEWED:	October 2009
IMPACTS ON OTHER POLICIES/ORDERS/GUIDANCE (<i>List</i>):			
Job Share policy			
Part Time Police Officers policy statement and guidelines			
Flexi time policy			
Career Break Scheme			

Security Classification:	Not Protectively Marked		
Disclosable under FOIA 2000:	Yes		
Author:	Nicola Smith	Policy Owner/Department:	Personnel
Date Created:	Dec 2003		
* This policy is only being posted on the Force Intranet/Force Internet			<input checked="" type="checkbox"/>
* As well as being posted on the Intranet/Internet this policy is available for publication in e-mail/ hard copy format.			Y

Human Rights Act 1998

The Human Rights Act 1998 has been considered with regard to this policy. Proportionality has been identified as the key to Human Rights compliance. This means striking a fair balance between the rights of the individual and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Diversity Policies

Equality issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with Equal Opportunity legislation and internal Equal Opportunity policies.

Data Protection Act 1998

Data Protection issues have been considered with regard to this policy. Adherence to this policy will therefore ensure compliance with the Data Protection Act 1998 and internal Data Protection policies.

Freedom of Information Act 2000

Freedom of Information issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with the Freedom of Information Act 2000 and internal Freedom of Information policies.

Health and Safety Act 1974

Health and Safety issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with Health and Safety legislation and internal Health and Safety policies.

Policy Bureaucracy

The bureaucratic impact of this initiative has been considered; the benefits justify the costs of compliance with the policy.

2. Introduction

- 2.1 The Employment Act 2002 (as amended) introduced the right for parents of young children or of disabled children and carers of adults to apply to work flexibly. Employers have a statutory duty to consider all applications seriously. The legislation provides staff with the right to request flexible working but does not provide an automatic right to work flexibly as there may be circumstances where the organisation is unable to meet the desired work pattern.
- 2.2 In keeping with its commitment to diversity, and in recognition that members of staff other than those eligible by law may have care commitments or other individual needs, the opportunity to request flexible working to achieve work life balance needs is extended to all staff.
- 2.3 The aim of the legislation is to encourage discussion and consideration of flexible working patterns, which suits both the individual and the organisational requirements. Members of staff have a responsibility to consider carefully their desired work pattern when making an application and the organisation is required to follow procedures to ensure requests are considered seriously.

3. Policy Statement

- 3.1 To implement the legislative requirements and to ensure requests for flexible working are considered in a fair and consistent manner.

4. Guidance and Procedures

- 4.1. All staff are eligible to apply for flexible working
- 4.1.2 In order to make a request an individual will:-
- not be an agency worker,
 - not have made an application to work flexibly under the right during the previous 12 months
- 4.1.3 Eligible employees will be able to request:-
- I. A change to the total amount of hours they work. Examples of this are:-
- Part time working
 - Job Share
 - Voluntary reduced hours
- II. A change to the periods of time they are required to work. Examples of this are:-
- flexi-time – available for eligible support staff
 - annualised hours
 - term time working
 - variable shifts

- career breaks

4.1.4 The above could cover a range of working patterns. Appendix 'A' provides further guidance although the list is not exhaustive.

4.1.5 Applications for a change in working pattern will not always require a significant alteration. For example, a member of staff may wish to commence work half an hour later and make up the time later in the day.

4.2 **Considerations for Flexible Working**

Working options can produce a better work life balance for individuals. Each application for flexible working should be considered in light of operational requirements and individual needs.

Where Line Managers and HR Managers are reviewing requests for flexible working, the following should be considered:-

4.2.1 **Potential Benefits to the Organisation**

- maximised available labour
- staff feel valued
- motivated workforce
- less stressful environment
- attract a wider range of applicants for vacancies – reputation of being employer of choice
- increased productivity
- reduced absenteeism
- retaining valued and skilled staff

4.2.2 **Potential Benefits to Staff**

- greater personal responsibility and control over working life
- improved relationships with managers
- improved self-esteem, health, concentration and confidence
- not bringing problems at home to work and vice versa
- time to focus on both work and life outside work

4.2.3 **Policies/Guidance on Flexible Working Options**

The Force currently has a range of flexible working policies that can be found on the Intranet, Personnel Web Page, HR Policy Index or on the Work/Life Balance web page. Advice may also be obtained from HR Managers or the Employee Relations Manager.

The Force will continue to consider and develop flexible working practices. Summaries of options that may be considered are attached at Appendix 'A'.

4.3 Procedure to Request Consideration of Flexible Working

Although a formal request must be submitted, members of staff may discuss flexible working options informally with their line manager or HR Manager. Such verbal or informal requests should be considered within the guidelines of this policy.

4.3.1 The member of staff must make a written request, in writing on a Form 476 to their Line Manager, outlining the work pattern they wish to work and how they see it operating.

4.3.2 This should include:-

- i. whether a previous application has been made
- ii. The change applied for – the new working pattern and the proposed effective date
- iii. consideration to which working pattern will assist them, any financial implications this may have (for example, reduced hours or a change in shift pattern/allowances) and the impact upon the operational requirements and how these can be accommodated.

4.3.3 The request should be discussed with the Line Manager and HR Manager to review the possibilities and procedure. Staff can only make one application in a rolling 12 month period and an accepted application will mean a permanent change to the terms and conditions of employment and the way of working. There is no automatic right to revert to a previous working arrangement. The proposed changes should not be seen as an opportunity to enhance terms and conditions of service, for example, an increase in shift allowance.

4.3.4 Within 28 days (4 weeks) of receipt of the written application, the HR Manager and Line Manager must consider the request and arrange to meet with the employee. The member of staff may be accompanied by a UNISON/Federation representative or work colleague at the meeting. This meeting will provide both the organisation and the member of staff with an opportunity to discuss the desired work pattern and how it may be accommodated to ensure organisational and business needs are also met. Both the member of staff and managers should also give consideration to alternative working patterns should there be problems in implementing the original request.

4.3.5 Within 14 days (two weeks) after the date of the meeting the Line Manager must respond to the member of staff in writing, as follows (copy to HR Manager).

- i. Agree the new work pattern and a start date or a compromised work pattern.
- ii. Provide a clear business/operational case as to why the application cannot be accepted.

Consideration should be given to the additional costs of any proposals and any adverse impact upon quality or performance for the organisation. There should be a sound business reason for any refusal. The key to a successful outcome will be negotiated between all parties of the working pattern to fit both organisational and individual needs.

4.3.6 For members of staff who require a temporary change of working arrangements due to particular individual circumstances, the above procedure should be followed. If agreed, the member of staff should be informed in writing that such arrangements are temporary and should be the subject of regular review to assess the impact on the individual and the organisation. The review will be undertaken by the HR Manager, Line Manager and member of staff. Timescales will be dependent upon the individual circumstances surrounding the temporary changes.

- 4.3.7 The timescales outlined above may be varied by mutual agreement. Depending upon the individual circumstances of the request, it may not always be feasible to conclude matters within the above time frame. A written record of the agreement and reasons which extend the timescale should be made by the line manager. Time limits will automatically be extended where the Line Manager is absent due to annual leave or sick leave when the application is received. The 28-day period outlined above will then commence when the Line Manager returns to work.
- 4.3.8 Support staff will have limited recourse to an Employment Tribunal if the request is refused. A claim could only be submitted in specific circumstances outlined below:-
- i. failure to hold initial or appeal meeting
 - ii. failure to provide notice of a decision within the agreed timescale
 - iii. the application was rejected on incorrect facts.
- 4.3.9 Should a claim be brought under sex discrimination or other legalisation/regulations, the Employment Tribunal will consider the Force requirements and how any refusal may have been justified by them.

4.4 **Granted Requests**

- 4.4.1 Where the request is granted the line manager must review the workload associated with that post, the primary considerations being;
- i. absorption of work by existing staff or, alternatively;
 - ii. recruitment of additional staff (subject to full business case).
- 4.4.2 Should a member of staff request to transfer to another post the organisation will review any flexible working arrangements previously agreed as these may not be suitable within the new role. The member of staff will need to be aware of any operational requirements of the role into which they wish to transfer and that flexible working may not be appropriate.

4.5. **Refusing a Request**

- 4.5.1 If the request is refused there must be valid, relevant and accurate grounds which may include any one or a combination of the following:-
- The burden of additional costs e.g. training, funding of extra posts.
 - Detrimental effect on ability to meet customer demand
 - Inability to re-organise work among existing staff
 - Inability to recruit additional staff
 - Detrimental impact on quality
 - Detrimental impact upon performance
 - Insufficiency of work during the periods of proposed work
 - Planned structural changes
 - And such other grounds as the Secretary of State may specify by regulations.

4.6. Review of Flexible Working Requests

- 4.6.1 Any request for flexible working and consideration of this, will be based on individual circumstances and a management decision taken on this bearing in mind operational issues together with existing working patterns within the business area.
- 4.6.2 Following on from the request being approved, an annual review date should be set, based on the anniversary of the arrangement. It may also be necessary for a review to take place when operational or other circumstances such as organisational/structural changes or an increase/decrease in staffing levels makes the current pattern of working untenable.
- 4.6.3 Members of staff must be aware that, as a result of such changes, a review will take place between the member of staff, the line manager and HR Manager to identify if the existing flexible working pattern can be accommodated. It may mean that the flexible working pattern can be accommodated. It may mean that the flexible working pattern will have to be re-negotiated or even cease.
- 4.6.4 It must be ensured that any decision to alter or cease a flexible working pattern must be supported fully by a business case and full consultation must take place with staff prior to any changes that may affect the working pattern. Consultation should take place between the member of staff, their staff association/UNISON representative (if appropriate) the line manager and HR Manager. The consultation should commence as soon as possible once any impending changes are known. Once identified, the business/organisational changes should be communicated in writing to the member of staff.
- 4.6.5 Staff must be aware that an annual review, or a review as identified as above, will be put in place.
- 4.6.6 Staff must be aware, that once a flexible pattern of working is agreed; there is no automatic right to revert back to the previous working pattern. Any further requests for change need to be submitted in accordance with this policy.
- 4.6.7 When transferring to another role even in the same formation, there is no automatic right to carry over an existing flexible working pattern. Consultation will need to take place with the prospective managers to see if the role can accommodate the current/desired flexible working pattern and a new application will need to be submitted.

4.7. Withdrawal of the Application

- 4.7.1 If the member of staff verbally withdraws their application, this should be confirmed in writing to the individual on Form 33 by the HR Manager.
- 4.7.2 Where the member of staff fails to meet their responsibilities, the application will be treated as withdrawn. This will apply when the member of staff fails to attend without reasonable cause a meeting more than twice or refuses to provide information, which can be used to assess the request. In either of these circumstances, the HR Manager should write to confirm that the application has been withdrawn.

4.8. Obligations for the Organisation and Individual

- 4.8.1 The member of staff has a responsibility to consider their request carefully with the aim of finding a solution that suits both them and the organisation. It may be that the original request cannot be accommodated due to operational requirements and members of staff should be willing to negotiate with the aim of reaching an acceptable compromise.
- 4.8.2 Managers should ensure that as soon as a request is received a meeting is arranged with the member of staff to discuss the possibilities and procedure.
- 4.8.3 Neither the member of staff nor the line manager should try to impose their preferred option. Negotiation may be required in order to consider both organisational and individual needs.
- 4.8.4 Managers and staff should be aware that personal circumstances could alter. Flexible arrangements should be reviewed on a regular basis. The review period should be agreed between the Line Manager, HR Manager and member of staff and should be based on the individual circumstances of each case.
- 4.8.5 Both the manager and member of staff have an obligation to ensure that contact is maintained should the flexible working pattern mean that the manager is not always available. Contact can be maintained over the telephone or by e-mail but regular meetings should be held to ensure effective two-way communication. The level of supervision and contact will vary according to role and individual skills and performance

4.9. Night Work/On Call Requirements

- 4.9.1 Whether or not the member of staff is required to work nights or on call will depend upon the role, contractual or operational requirements. Flexible working patterns should not result in extra pressure being placed on either the individual or other members of the team. Staff who request flexible working are not entitled to refuse to work nights, on call or bank holidays if these are requirements of the role.
- 4.9.2 If the post requires night work, then the number of night shifts should be on a pro-rata basis as appropriate.
- 4.9.3 If the post has an 'on call' requirement, the manager should supply information regarding the frequency of call out. When part time staff take part in the rota, this should be on a pro-rata basis.

4.10 Training

Members of staff should ensure that, provided appropriate notice has been given, they attend organisational or continuing professional development training as required by the course programme. This may require an amendment to the normal working pattern.

4.11. Contractual Issues

4.11.1 Pensions

Staff should seek advice on pension implications if considering a reduction in working hours. Advice can be sought from Headquarters Financial Services Section.

4.11.2 Statutory Sick Pay/Maternity Pay/Adoption Leave/Paternity Leave Pay

If hours are reduced, payment is made on a pro-rata basis.

4.11.3 Rate of Pay

Pay will be pro-rata to hours worked. Appropriate allowances will apply as per terms and conditions of service.

Any member of staff working under the provisions of this policy will not be entitled to overtime compensation (payment or time off in lieu) until in excess of 37 hours has been worked during that week.

4.12. **Shift Allowances**

Where a post attracts a shift allowance and hours are altered under the Flexible Working Policy, the shift allowance will be re-calculated in accordance with the hours to be worked. The revised shift pattern should be discussed with the HR Manager to ensure the correct allowances apply. A copy of the revised shift pattern must be sent to HQ Financial Services to ensure the correct payments are made.

4.13. **Annual Leave**

Where working hours are reduced, leave will be calculated on a pro-rata basis.

Human Rights Compliance

- 5.1 The content of this policy has been tested against Derbyshire Constabulary's Human Rights Compliance Test.
- 5.2 Consideration has been given to the compatibility of this policy and related procedures with the Human Rights Act and European Convention on Human Rights; with particular reference to the legal basis of its precepts; the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making processes and outcomes of actions.

5. Diversity Compliance

The legal basis for the policy complies with the Employment Rights Act 2003

The content of this policy has been tested against Derbyshire Constabulary's Diversity Compliance test

6. Monitoring and Review

Flexible working applications will be monitored centrally. The policy will continue to be reviewed in the light of changing case law and legislation. The policy will be formally reviewed in January 2010.

7. Appeals Process

- 8.1 The member of staff has 14 days (two weeks) to appeal against the decision from when it is notified to them. The appeal process is designed to encourage a satisfactory outcome. The appeal should be in writing to the Employee Relations Manager. Within 14 days (two weeks) of the appeal being received a meeting will be held between all the parties.
- 8.2 A decision on the appeal will be given to the member of staff within 14 days (two weeks) of the meeting.
- 8.3 If an agreement is reached the new working arrangements should be introduced as soon as is practicable but within two months of the appeal decision.

8. Certificate of Compliance

'This document was audited in October 2009 by Nicola Smith, HR Dept within the guidelines of the Human Rights Act 1998. The audit was carried out on the assumption that the guiding legislation is itself compliant with the Human Rights Act 1998.

Where there are areas of potential interference with individuals' rights under the Act due regard has been given to the issues of legality legitimate aim proportionality and fairness.

Subject to any new legislation or changes in case law which require immediate amendment this document next requires reviewing in October 2010 by the Head of Department Personnel.

Appendices

Appendix 'A'

FLEXIBLE WORKING OPTIONS

This appendix identifies the variety of flexible working options which may be considered. The list is not exhaustive and some options will not be suitable for all roles. Individual circumstances, operational requirements and resilience together with service provision will need to be considered.

Working Fewer Hours

Staff under this arrangement would normally work either less than 7 hours 25 minutes per day or 37 hours per week if Support Staff or less than 40 hours per week if police officers. For police officers, they are unable to work less than 16 hours at present. The arrangement could be for set working times, or it could be variable. This should be agreed between the line manager and member of staff. Variable working hours can be of benefit to the Force as it lends itself to demand led cover and shifts can be planned accordingly. (reference Part Time and Job Share policies).

Working Fewer Days or Shifts

Staff under this arrangement would normally work less than 5 working days or shifts. This arrangement can be for set working days or variable (reference Part Time and Job Share policies).

Working Alternate Weeks

This is usually worked as part of a job share arrangement but depending upon the role could operate without this (reference Part Time and Job Share policy).

Job Sharing

Job share involves two members of staff covering one full time post. The hours can be divided in a number of ways to suit the circumstances of the postholders and to ensure full time cover is provided. (reference Part Time and Job Share policy).

Flexi-Time Scheme

This scheme is available for Support Staff roles and provides for a flexible pattern of working hours on a full or part time basis. It should be ensured that individual patterns of working do not adversely impact on other staff or on operational requirements (reference Flexi Time Scheme).

Annual Hours

This works on the basis of agreeing a fixed number of hours over the year, then calculating hours on a monthly basis. This can be of benefit to the organisation as it allows managers to plan during peak times or annual leave.

Compressed Hours

This form of flexible working provides for full time hours worked over a shorter working week. For example 37 hours worked over a 4 day week for a member of Support Staff (see below – Notes of Guidance – Compressed Working).

Variable Working Hours

This enables staff to work varying hours rather than having set working hours – for example – designing a rota on a weekly basis. Shifts can be organised around peaks and troughs in demand and is beneficial for staff whose availability may change.

Homeworking

"Homeworking is where the work is carried out in the staff member's own home rather than on Force property. It can support the Force diversity aims, retain skilled staff, increase productivity and reduce premises spend. Homeworking can fall into the following groups -

- A) Staff who work at home for part of the week on a regular basis by agreement with their line manager
- B) Staff for whom it is their normal place of work and use the formal work base as and when required - ie. meetings, etc.
- C) Staff who work at home on an occasional ad hoc basis; for example to complete reports, projects, etc

In relation to A and B above, requests to work on such a basis should be submitted through the Flexible Working policy.

Career Break Scheme

This scheme allows for all staff to take an unpaid break in their career (reference – Career Break Scheme).

COMPRESSED HOURS

- 1.1 This provides guidance on dealing with requests for staff to work compressed hours.
- 1.2 Compressed hours is a form of flexible working that can assist staff in achieving a work-life balance. The most common forms of compressed hours are:-

Support Staff

37 hours over a 4 day week or,
week
74 hours over a 9 day fortnight
fortnight

Police Officers

40 hours over a 4 day
80 hours over a 9 day

- 1.3 Before a request to work compressed hours is approved, managers need to determine whether this form of working pattern is appropriate to the nature of the work with which the individual is involved. Managers also need to take into account the operational needs of the team to determine whether compressed hours can be accommodated. Care will need to be taken to ensure that it does not cause too much disruption to the team or place undue

pressure on the other members of staff. It may be attractive to an individual to only work a 4 day week without any loss of salary but there may be an adverse impact on other staff on the days when the individual on compressed working is not in attendance. Before agreeing compressed hours working, managers must assess the likely impact upon operational resilience and service delivery.

- 1.4 **Terms and Conditions:** If a member of support staff is to work compressed hours, a contract outlining the changes in their working pattern and terms and conditions of service would need to be issued accordingly. For all staff the actual days to be worked will need to be specified, together with a requirement that any request to vary the working arrangement will need to be made in writing and will be subject to management approval. As not all jobs are suitable for compressed working arrangements, there must also be a clause stating that, in the event of a transfer to another post, a change in working hours or days may be necessary. Compressed working will only be granted on acceptance of this condition.
- 1.5 **Annual Leave Entitlements:** This form of working pattern will require annual leave to be recalculated. For staff working compressed hours, annual leave should be expressed in hours to take into account the fact that their working day is longer than normal.
- 1.6 **Public Holidays:** As with part-time working, the entitlement for staff working compressed hours should be expressed in hours to allow for holidays that might fall on non-working days. The allowance should be calculated for the calendar year January – December.
- 1.7 **Flexibility on Varying the Non-Working Day:** Managers should determine in advance with staff which day will be the non-working day. This will ensure that adequate arrangements are made to cover the individual's absence and ensure that no undue pressure is placed on the other team members. Requests to vary working days should be looked at sympathetically and it may be desirable to have a mutual acceptance that the working day should be subject to variation in order to meet the needs of the individual or the Department.
- 1.8 **Recording Sick Absence:** If a member of staff working compressed hours falls sick on one of their working days, the absence will be recorded as sick leave. However if sick on a non working day, the absence will not be recorded. In the instance where an individual's working day falls on a public holiday and the individual has agreed in advance with management to work on that day but fails to attend due to illness, sick leave will be recorded and a day off in lieu will still be granted. However, if sick on a public holiday where it had been agreed in advance that the member of staff would not attend work, sick leave will not be recorded and a day off in lieu will not be granted.