Manager’s guide to requests for adjustments to working patterns

From the 30 June 2014 all employees (who have over 26 weeks employment at the University) have the right to request adjustments to their working pattern. The duty on managers to consider requests seriously is a legislative right designed to help employees with their work life balance to the benefit of employers and employees.

Managing a request for adjustments to an employee’s working pattern requires adhering to a procedure within a set time frame and handling issues that are not necessarily straightforward. No two cases will be the same but you will need to bear in mind:

- A member of staff, if eligible, has the right to request adjustments to their working pattern
- You must seriously consider, discuss and if appropriate negotiate a satisfactory outcome
- There are time scales to follow (see the Appendix A flowchart)
- There is no automatic guarantee that you will agree to a request
- Refusal, however, can only be on the 8 recognised business grounds (Business grounds for refusing a request)
- You need to discuss the matter with your Human Resources Business Partner as soon as you receive a request
- The member of staff has the right, after appeal, to seek help from a third party such as ACAS and has the right to go to an Employment Tribunal if procedure is not followed or a decision has been made on incorrect facts.

Who can make a decision?

<table>
<thead>
<tr>
<th>Staff group</th>
<th>Level of delegation</th>
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<tbody>
<tr>
<td>Academic Staff</td>
<td>College Dean</td>
</tr>
<tr>
<td>Professional Service Staff (College)</td>
<td>College Dean or nominee (as below)</td>
</tr>
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<td></td>
<td>• College Manager</td>
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<tr>
<td>Professional Service Staff</td>
<td>Director of Service or nominee (as below)</td>
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<td></td>
<td>• Other Senior Manager as per schedule agreed with Director of HR</td>
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Receiving a request

As soon as you receive a request you should refer to:

- The Right to request to work flexibly policy and procedure which sets out the procedure a member of staff follows to make a request
- The Appendix A flowchart so that you are clear about timescales
• Your Human Resources Business Partner

Considering a request

• The manager should acknowledge receipt of the request as this will confirm the date for the time scales to begin (using the template email in Appendix B).
• You need to arrange a meeting with the member of staff and normally your Human Resources Business Partner to discuss the request as soon as possible after the request is made. The employee can be accompanied by a work colleague or union representative: you should inform the employee of the opportunity to be accompanied when you arrange to meet with them. The meeting should be held at an appropriate time and place (Appendix B - Templates)
• The key issue to consider is the impact upon the “business” of acceding to the employee’s request. The decision on whether or not to accept the proposal should be made solely on business grounds, not the employee’s personal circumstances. The University needs to maintain a core level of service; you must consider how this will be achieved.
• It is important to maintain consistency across the University

If you receive more than one request from members of the same team at the same time you should seek advice from your HR Business Partner – ACAS have issued specific advice on how to manage multiple requests from the same team.

Timescales

The process must be completed (including the appeal) within 3 months from the date that the application is received.

If the process looks like it might take longer than 3 months you MUST get written approval from the employee to extend the timeframe (using email template in Appendix B).

The meeting

• Let the employee know if there is going to be a delay in organising the meeting.
• Treat it as any other business meeting. It should not take place where the content of the meeting can be overheard by others. Equally if both sides agree and it helps timescale then a meeting does not have to take place face to face and can occur over the phone or some other way (e.g. Lync, SKYPE, teleconference, etc.)
• Time and date should be convenient for you both. If a meeting is arranged to discuss the application and the employee fails to attend this and a rearranged meeting, without good reason, the application will be deemed to have been withdrawn.
• The meeting provides both parties with the opportunity to discuss the desired work pattern in depth and consider how it might be best accommodated. Both you and the member of staff should be prepared to be flexible and be willing to explore alternative working arrangements if the original request cannot be accommodated.
• If, as an outcome of the meeting and before you are able to give your decision, you require additional information or need time to discuss the proposed working arrangement with other members of staff, you both need to agree to an extension of the timescales and confirm this in writing (email is acceptable if appropriate Appendix B contains a template).
• If a decision has been reached at the meeting discuss and agree a review date.
Reaching your decision

Employees could request a wide variety of different working patterns such as a reduction in hours, a change to start and finish times, compressing hours into a longer day but shorter week, annualised hours, term time working, job sharing, flexitime or home working. You must therefore clarify the contractual implications and discuss the practical implications with your Human Resources Business Partner before reaching your decision. The University is under no statutory obligation to grant a request if it cannot be accommodated by the business due to the eight business reasons listed below.

Some general considerations when looking at a request (more prompts can be found in Appendix C decision prompts) are:

- nature of work to be done
- can the work be done in the pattern of working requested
- impact of restructuring work load on rest of duties
- impact of restructuring work load for work colleagues and teams
- current work patterns of other team members
- flexibility if work commitments change (short-term), sometimes at short notice, or for meetings
- impact on other terms and conditions, e.g. pay, annual leave, etc.
- impact on the role e.g. if some duties cannot be undertaken as fte or location of working no longer allow those duties to be carried out does the role need to be re-graded? If so this must be discussed with the employee.

Additionally if the request is for homeworking, consider:

- suitability of environment to work at home, space, and child care arrangements. Please note that staff who are homeworking should not have sole responsibility for a child/children or other dependant during hours when they are working.
- how performance and output will be monitored
- health and safety in the home work area – a risk assessment should be carried out
- contact and response agreement on home-working days
- insurance, any additional premium for on home insurance should be met by the member of staff
- equipment such as computer
- consumable costs to be reimbursed such as stationery, telephone, work use of the internet
- member of staff to meet the additional costs incurred for heating, lighting, etc.
- sickness

Externally funded posts

It is important to consider the terms of a grant for externally funded posts. If it is a change in FTE, does the grant allow for changes to FTEs?

For example if an employee requested a reduction in fte and you considered doing so but extending the contract by a few month, can this be done or does the grant have a specific end date that must be adhered to. In this example Research Accounting would be able to advise you.
International Staff on time limited visas

It is important to consider the terms of any visas employees are working on. If a change in FTE is requested is this allowed on their visa? It is crucial to seek further advice from the HRBPs and or the International Employment Officer.

Decision

- As soon as possible after the meeting your Human Resources contact is required to inform the member of staff of your decision in writing.
- Please ensure all decisions are communicated clearly to the Employee Services Team in HR Services. The details will need to include the days agreed, the hours agreed, location, etc. this is so arrangements can be reflected correctly in the contract variation and on the Trent system.
- The notification (from HR Services) of acceptance will include:
  - Include a description of the new working pattern
  - State the date from which the new working pattern is to take effect
  - Confirm any change in pay or other terms and conditions
  - Define the trial period and confirm review date
  - Be dated
- The notification of an alternative arrangement should be as above and
  - Include details of dates agreed (if temporary)
  - Confirmation of what happens when the period of time comes to an end
- The notification of rejection will:
  - State the ground(s) for refusing the application (one or more of the eight business reasons)
  - Provide a sufficient explanation as to why the ground(s) for refusal applies in the circumstances
  - Provide details of the member of staff’s ability to appeal
  - Be dated

Review Period

Any changes agreed under this will mean a change to the employee’s terms and conditions of employment. The University has agreed that there will be reviews after 6 and 12 months (this review can be held at a shorter or longer period of time, if appropriate to the circumstances and must be agreed in advance with the employee).

Business grounds for refusing a request

- Burden of additional costs

  In considering this, it is important to think about whether the proposed new arrangement allows the department to recoup costs through better coverage of service or increased outputs. All costs can be considered including management overheads of managing more fractional contracts.
Example: two members of staff apply for a job share and both request to work 3 days a week. Whilst the manager may be happy to agree to a job share they are unable to increase payroll costs to cover the additional hours. The staff are not prepared to consider 2.5 days each, so the manager reluctantly has to turn down the flexible working requests.

- **Inability to reorganise work among existing staff**

Managers should consider the cost of recruiting additional staff against the potential cost of losing the existing member of staff. Is it appropriate to talk to other team members about re-organising the work?

*Example: a specialist advisor who has a full workload requests a reduction in hours. The manager looks at the team workload, the skills of the particular advisor and future demand. The specific skill set of the advisor and the lack of capacity within the team for picking up extra work or retraining to gain the necessary skills means that work would not be able to be shared. It would therefore create undue pressure on the rest of the team. The request is reluctantly turned down.*

- **Inability to recruit additional staff**

Consider the cost of recruiting additional staff against the potential cost of losing the existing member of staff making the request. Also consider talking to the team about any reorganisation of work where this would be appropriate before coming to a decision.

*Example: A customer facing administrator requests to reduce their hours to 29.2 hours a week (0.8FTE). There needs to be cover 5 days a week from 9-5.15pm. The manager and employee agree to advertise for a 0.2FTE but the recruitment campaign is unsuccessful in finding an appropriate candidate. The request has to be turned down.*

- **Detrimental effect on ability to meet ‘customer’ demands**

Look carefully at the skills and potential of other members of staff when considering these reasons.

*Example: An Academic asks for their teaching to be confined to 2 consecutive working days a week as they do not live in Exeter and are travelling down to Exeter and staying overnight. This is seen as potentially having a detrimental impact on service as the academic would have very limited availability for seeing students outside lectures; they would not be able to contribute effectively to admin duties in the College e.g. helping with admissions/open days and also it is likely to be technically unworkable from a timetabling perspective.*

- **Detrimental impact on quality**

Managers should assess the skills and potential of other employees, with training many staff can acquire new skills.
Example: an experienced member of the ground staff asks to reduce their hours. The rest of the team are relatively new and are still learning all the requirements of the job. It is felt that a reduction in hours cannot be accommodated at this time but an agreement is made to look at the needs of the business and the skills of the staff in six months time.

- **Detrimental impact on performance**

  Performance can mean the individual, the team or the whole organisation

  *Example: a manager is supervising a busy team where there are issues of poor performance and short term absenteeism. The manager had been recruited to deal with the issues and requests to work flexibly from home. The request is considered but it is felt that the main focus of the role is to manage the team through the current issues. It is felt that the request cannot be granted at the present time as the manager is required in the office to tackle the issues.*

- **Insufficiency of work during the periods the member of staff proposes to work**

  Ensure that there is a need for the work to be delivered during the period requested.

  *Example: a receptionist who works standard University hours of 9.00am to 5.20pm asks to change their working hours to start at 8.00am every day and finish at 4.20pm. The manager looks at the need to respond to customers/staff and decides there is inadequate demand at this time in the morning and the fact that this would reduce reception cover at the end of the day also presents a difficulty. So the request is turned down.*

- **Planned structural changes**

  This might be important where there are plans to reorganise or change the business and the flexible working request might not fit in with the plans.

  *Example: a member of catering staff requests to start work later and finish later. Whilst this seems entirely possible at present, there is a review of customer needs taking place which could result in the opening hours changing. The request is turned down until the review has been completed.*

**Right of appeal**

- A member of staff has 14 days from the date of receiving your notification of rejection to appeal, in writing to the Director of Human Resources
- As soon as possible and recommended within 14 days of receipt of that letter a meeting will be arranged with a Deputy Vice Chancellor, Chief Operating Officer or nominee
- The outcome of the appeal is final and must be confirmed as soon as possible and within 3 months of the initial request.

**Complaint to an employment tribunal or ACAS**

A member of staff can make a complaint to an employment tribunal or ACAS when the procedure has not been followed or if a decision was based on incorrect facts.
**Ongoing Management**

The changes made following a request can be reviewed at any time that the business needs change, as with any other employee.

It is expected that you will communicate regularly with the employee about how the arrangement is working. If there are any issues they should be addressed early and dealt with as any other line management issue.

It is important that decisions on day to day operational needs are discussed and agreed with your employee. For example; how is the work going to be covered when they are not in the office (if appropriate), what should their out of office state, etc.? 
Appendix A

**HOW DOES THE PROCESS WORK?**
This process must be completed within 3 months unless there is written agreement from both sides for an extension. The timescales below are recommended to help keep within 3 months.

Member of staff makes application to College Dean/Director of Service with copy to HR Business Partner

- **Recommended within 28 days**

College Dean/Director of Service arranges with HR Business Partner to meet the member of staff accompanied by a work colleague

- **Recommended within 14 days**

College Dean/Director of Service writes to inform member of staff of the decision

- **Both parties will need to agree arrangements to be made for when the working pattern is changed**

  - **Request is ACCEPTED**

  - **Request is REJECTED**

Member of staff needs to decide if they wish to appeal against the decision. If so they must do so in writing to the Director of Human Resources, setting out their ground(s) of appeal

- **Recommended within 14 days**

Director of Human Resources receives the written appeal

- **Recommended within 14 days**

A Deputy Vice-Chancellor, Chief Operating Officer or nominee with HR Business Partner meet with member of staff to discuss the appeal

- **Recommended within 14 days and MUST be within 3 months of initial request unless an extension has been agreed**

Letter to notify the member of staff of the appeal decision

- **Appeal is ACCEPTED**

  - **Both parties will need to agree arrangements to be made for when the working pattern is changed**

  - **Request is REJECTED**

In specific circumstances, member of staff can take their case to an employment tribunal
Appendix B (please keep copies of these emails)

**Email Template for Confirming Receipt and arranging a meeting following a Request to change the work pattern**

Dear ............

I confirm that I received your application for a request to change your work pattern on …./…/….

I would like to meet with you to discuss your request and propose the following:

Date:

At: am/pm

In:

If you are unable to make this date please let me know as soon as possible so we can agree an alternative.

You may be accompanied at the meeting, by a work colleague or union representative. Please let me know if you will be accompanied.

Kind Regards

Cc HR Business Partner

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**Email Template for requesting an extension to the timescales following a Request to change the work pattern**

Dear ............

I confirm that I received your application for a request to change your work pattern on …./…/….

The right to request to change your work pattern policy requires written agreement to extend the timescales beyond 3 months. I am writing to seek agreement to extend this deadline for a period of XXXX (state number of days or weeks). The reason for this is XXXX (state reason).

Please confirm in writing (email is acceptable) that you agree to this extension.

Kind Regards

Cc HR Business Partner
Appendix C – Decision making prompts

Managers can use the following questions to help them to make a decision about whether a request to adjust working patterns can be agreed. The 8 business reasons a request might be refused can be found in the main body of the document or on the web pages.

Possible ways to overcoming issues that are identified should be considered and you should discuss with the employee whether the flexible working request can be partly met if not fully.

Minimise costs to the University

- Will excessive additional costs be incurred, e.g. need for overtime working to cover shortfall in hours? Management time for more employees?
- How can costs be minimised?

Reorganise work among existing staff

- Is there scope for others to cover the work?
- Is the work confidential/sensitive?
- Will changes to the duties of other staff be required?
- Can work be reallocated fairly?
- Can the level of the service be maintained?
- Will the reorganisation put undue pressure on other members of the team?

Recruit additional staff

- Can minimum staffing levels be maintained?
- Can work be reorganised to create a vacancy?

Maintain quality

- What is the level of the service, how can this be maintained?
- Can quality and standard of customer service be maintained?
- Will there be adequate operational management/supervision of staff?
- How will contact with manager/supervisor be maintained?
- How will instructions/work allocation be managed?

Meet customer demand

- Will customer contact be affected?
- When do customers mostly need support/response?

Maintain performance

- How will agreed objectives be achieved?
- How will performance measures be achieved?
- What is the potential impact on team morale?
- What will be the impact on team/suppliers/other team’s efficiency?

Ensure sufficient work available

- Is sufficient work available during proposed working hours?
- Does the role have flexibility to plan/prioritise own workload?
- Does the role have control of flow of work?
- How can peak workload periods and/or day/time critical activities be managed?
- How much of the work is short term vs longer term deadlines?
Take account of planned structural changes

- Are any structural changes anticipated that may impact on the viability of the proposed change?
- Do any structural changes create new opportunities?

Where the proposed change cannot be accommodated, discussion with the employee should take place to explore whether a compromise or alternative solution can be identified that addresses any barriers identified above.