

Flexible Working Policy

1.0 INTRODUCTION

In order to assist in managing the balance between work and family life, employees with children under the age of seventeen, or eighteen in the case of a disabled child, and employees who have caring responsibilities for adults have the right to apply to NYF&RS to work flexibly. The service has a duty under the Employment Rights Act 1996 (as amended by the Employment Act 2002 and the Work and Families Act 2006) to consider such requests seriously in line with a set procedure, and will be able to refuse requests only where there are clear business grounds for doing so.

The North Yorkshire Fire & Rescue Service's Flexible Working Policy incorporates all relevant legislation and statutory entitlement with regard to requesting flexible working arrangements.

Whilst this procedure meets statutory requirements of the Employment Act 2002, the Work and Families Act 2006 and the Flexible Working (Amendment) Regulations 2009, the provisions for flexible working have been extended to all employees regardless of childcare responsibilities, the age of children or the caring responsibilities for adults.

All the rights described in this document apply to full-time and part-time employees irrespective of how many hours they work, provided they satisfy any qualifying conditions such as length of service.

This document should be read carefully, as failure to comply with certain procedures and requirements could mean that certain rights could be lost.

2.0 SCOPE OF THE PROCEDURE

2.1 To make an application under the statutory right employees have to meet certain criteria which are detailed in section **3.0**. Employees who do not meet the necessary criteria will not be able to make a request under the statutory right however, they may still apply to work flexibly but different conditions will apply. Further details can be found in section **9.0**

2.2 There is scope to apply for a wide variety of different types of working pattern. Eligible employees can request to:

- Change the hours they work
- Change the times when they are required to work; or
- Work from home (whether for all or part of the week)

A request may be as simple as asking to start half an hour later than usual to enable an employee to drop their child off at school or, it may be a bigger change to their hours on order to better fit their work with their childcare requirements.

2.3 Flexible Working actually incorporates a wide variety of working practices. A flexible working arrangement can be any working pattern other than the normal working pattern in an organisation. Most people are familiar with working part-time for reduced pay or working different shift patterns. However, other ways of working are outlined in Appendix A.

North Yorkshire Fire & Rescue Service

- 2.4 It should be noted that any request that is made and accepted under the statutory right will be a **permanent** change to the employee's contractual terms and conditions (unless otherwise agreed). **There is no right to revert back to the previous working pattern.**
- 2.5 Only one application to apply to work flexibly under the right can be made within a 12 month period.

3.0 CRITERIA FOR ELIGIBILITY

- 3.1 An application under the right can only be made in order to help an employee care for a child although this may cover a range of circumstances e.g. to spend more time with children, to help with dropping children off at school etc. Applications cannot be made for any other purpose.
- 3.2 An employee must meet the following criteria to be eligible to make a request under the statutory right:

General

- Be an employee.
- Have worked for NYF&RS continuously for 26 weeks at the date the application is made.
- Not be an agency worker.
- Not have made another application to work flexibly under the right during the past 12 months.

Parents

- Be the parent of a child under seventeen, or under eighteen where disabled.
 - Have responsibility for the upbringing of the child and be making the application to enable them to care for the child.
 - Make the request no later than two weeks before the child's sixth or eighteenth birthday, as appropriate.
-
- Have responsibility for the upbringing of the child and be making the application to enable them to care for the child.
 - Be either:
 - the mother, father, adopter, guardian or foster parent of the child; or
 - married to or the partner of the child's mother, father, adopter, guardian or foster parent.

Carers of adults who are in the need of care

- Must be or expect to be caring for a spouse, partner, civil partner or relative; or
- If not the spouse, partner or a relative, live at the same address as the adult in need of care.

4.0. MAKING AN APPLICATION FOR FLEXIBLE WORKING

- 4.1 The main opportunity for an employee to set out their desired working pattern and

North Yorkshire Fire & Rescue Service

their justification for why it can be implemented is through their application when making a request.

4.2 An application under the right must:

- Be in writing and dated.
- State the application is being made under the statutory right to request a flexible working pattern
- Confirm the employee has responsibility for the upbringing of the child and is either: the mother, father, adopter, guardian or foster parent; or, married to or the partner of the child's mother, father, adopter, guardian or foster parent.
- Explain what effect, if any, the employee thinks the proposed change would have on the employer and how, in their opinion, any such effect might be dealt with.
- Specify the flexible working pattern applied for
- State the date on which it is proposed the change should become effective
- State whether a previous application has been made to the employer, and if so when it was made.

4.3 Employees wanting to make an application for flexible working should complete Form **FW (A)** Flexible Working Application Form (appendix C). This form will help to ensure that all the necessary information is provided and avoid any delays.

4.4 The level of detail included in the form should be as clear and explicit as possible. The written application should include the date when the employee would like the new working pattern to commence. This proposed date should allow sufficient time for the application to be considered and implemented. There is no set time however, employees should be prepared for the process to take up to 14 weeks, or longer if a problem arises.

4.5 The application should include an explanation of what effect, if any, the proposed change would have on NYF&RS and how this effect could be dealt with. This does not mean that employees are expected to know every factor that may influence their decision however, they must show that they have considered the factors they are aware of that are likely to influence the decision. Form FW(A) provides the main opportunity to set out the reasons why the preferred working pattern is compatible with the needs of the business as far as it is possible to tell and therefore should contain as much detail as possible.

4.6 Further details and guidance on information to include in an application can be found in the DTI Flexible Working document www.dti.gov.uk/er/flexible.htm.

5.0 CONSIDERING AN APPLICATION

5.1 The statutory right places a legal duty on employers to consider all applications and establish whether the desired work pattern can be accommodated within the needs of the business. This must follow a set procedure which is summarised in the flowchart in Appendix B.

5.2 A summary of the process is as follows:

- NYF&RS must hold a meeting to consider the request within **28 days** after the

North Yorkshire Fire & Rescue Service

date an application is received.

- Employees can, if they wish, take a colleague to accompany them at the meeting however, they may not answer questions on the employee's behalf.
- If the companion is unable to attend the meeting, the employee should re-arrange the meeting for a date within 7 days of the originally proposed time, ensuring the new time is convenient to all parties
- NYF&RS must write to the employee informing them of their decision within **14 days** after the date of the meeting.

5.3 An application will be considered to have been made on the day that it is received by Personnel. The reply slip at the bottom of the application form FW(A) will be completed and returned to the employee to acknowledge receipt of the application and confirm the date on which the application was made. If the form is incomplete it will be returned to the employee for completion and should then be re-submitted. The date of the resubmission will act as the date that the application has been made.

5.4 A face-to-face meeting will be held within 28 days from the date of receipt of the application. This meeting will provide both parties with the opportunity to discuss the desired work pattern in depth and consider how or if it might be accommodated or if an alternative working arrangement may be appropriate. The decision can also be taken during this meeting to agree that the new working pattern can take place for a trial period prior to any permanent change being made.

5.5 An employee who fails to attend the meeting without notification should contact their Line Manager to explain the reasons for the absence and to rearrange the meeting for the next mutually convenient time. If the employee again fails to attend the rearranged meeting and does not provide a reasonable explanation their application will be considered to have been withdrawn. A letter will be sent confirming the withdrawal.

6.0 REACHING A DECISION

6.1 Following the meeting to discuss the application NYF&RS will notify the employee of the decision in writing. This notification will take place within 14 days following the date of the meeting.

If the request has been accepted the notification must include a description of the new working pattern and state the date from which this new working pattern will take effect. If the request is denied the notification must state the business grounds for refusing the application along with an explanation as to why these business grounds apply in the circumstances. The notification must also provide details of the right to appeal.

6.2 Form **FW (B): Application Acceptance Form (Appendix D)** will be used to confirm a new working pattern which is a permanent change to the employee's terms and conditions of employment (unless agreed otherwise). If there is to be a trial period then this will also be detailed. If this new working pattern involves an increase or reduction in hours then Personnel will issue a new Statement of Particulars.

6.3 If a decision is unable to be made at the initial meeting then, with the agreement of the employee, an extension can be made to the 14 days in which NYF&RS must inform the employee of the decision following the meeting.

6.4 If a request is unable to be accepted then Form **FW (C): Application Rejection Form (Appendix E)** will be provided to the employee stating the business grounds

North Yorkshire Fire & Rescue Service

for why the request cannot be accepted, an explanation of why the business reasons apply in the circumstances and details of the appeal procedure.

The business grounds for refusing a request **MUST** be from one of the following:

- Burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganize work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes

7.0 APPEALING A DECISION

7.1 Employees must make their appeal, in writing, within 14 days after the date they receive written notice that their request has been rejected. This letter must be dated and include the grounds for making the appeal. There are no constraints on the grounds under which an appeal can be made. Form **FW (D) Flexible Working Appeal Form (Appendix F)** can be used for this purpose.

7.2 The appeal meeting will be arranged and held within 14 days after receiving notification that the employee wishes to appeal. Employees may be accompanied at the appeal meeting by one companion on the same basis as the meeting to discuss the request.

7.3 The employee will be informed in writing via form **FW (E): Appeal Reply Form (appendix G)** of the outcome of the appeal within 14 days following the date of the appeal meeting. If the appeal is upheld the written decision must include a description of the new working pattern and state the date from which the new working pattern will take effect.

If the appeal is dismissed the written decision must state the grounds for the decision and provide an explanation as to why the grounds for refusal apply in the circumstances. This written notice of the appeal outcome constitutes NYF&RS' final decision and is effectively the end of the formal procedure.

7.4 If the employee fails to attend the appeal meeting then the same conditions apply as those detailed in section 5.5.

7.5 If the employee is still not satisfied following the result of the appeal they should use the Grievance Procedure to seek resolution.

8.0 EXCEPTIONS TO THE PROCEDURE AND WITHDRAWALS

8.1 In the majority of cases, requests for flexible working will follow the procedure as detailed in the previous sections however, there may be occasions where it is necessary to deviate from this to reach a suitable outcome. It may be that extra time is needed e.g the employee may be due to go on leave in which case a decision cannot be made within 14 days. In any such circumstances extensions of time limits can only occur if agreed by both the employer and the employee. Form **FW (F):**

Flexible Working Extension of Time Limit (Appendix H) will be used as written record of this agreement.

8.2 Where an application is sent to a manager who is absent from work due to illness or holiday an automatic extension will apply.

The period in which to arrange the meeting will commence either on the day of the manager's return or 28 days after the application is made, whichever is sooner. There are no other circumstances where an automatic extension to any period applies.

8.3 There are three reasons why an application may be treated as withdrawn:

- The employee decides to withdraw the application – this must be in writing using form **FW (G): Flexible Working Notice of Withdrawal Form (Appendix I)**. No other application can be made for 12 months from the date the application was made.
- The employee fails to attend two meetings – in cases where an employee misses two meetings without reasonable cause their application may be considered as being withdrawn.
- The employee unreasonably refuses to provide the employer with the required information – there may be occasions where certain information is requested before a request can be considered.

9.0 OTHER FLEXIBLE WORKING APPLICATIONS (Non Statutory Right)

9.1 NYF&RS as an equal opportunities employer recognises that many other employees would benefit from flexible working arrangements. Also, employees may require changes to their working patterns for other reasons such as time off for religious observances, study or simply to pursue other interests and responsibilities outside of work.

9.2 Any employee may make an application for flexible working however, it should be noted that this will not be under any statutory right.

9.3 An employee must meet the following criteria to be eligible to make a request:

- Be an employee
- Have worked for NYF&RS continuously for 26 weeks at the date the application is made.
- Not be an agency worker
- Not have made an application to work flexibly during the past 12 months.

9.4 In order to apply for flexible working the application must:

- Be in writing and dated
- Detail the reasons for applying
- Explain what effect, if any, the employee thinks the proposed change would have on the employer and how, in their opinion, any such effect might be dealt with.
- Specify the flexible working pattern applied for.
- State the date on which it is proposed the change should become effective.
- State whether a previous application has been made to NYF&RS and of so on what date.

North Yorkshire Fire & Rescue Service

- 9.5 Employees wanting to make an application for flexible working that is NOT under the statutory right should complete **Form FW (H) Flexible Working Application Form (Non Statutory)** (Appendix J). This form should be as clear and explicit as possible.
- 9.6 NYF&RS will consider all applications and establish whether the desired work pattern can be accommodated within the needs of the business.
- 9.7 The same process will be followed as detailed in section 5.2 however, it should be noted that there is no legal requirement for the initial meeting to be held within 28 days. NYF&RS will endeavour to hold the meeting within the 28 days however on some occasions this may not be possible. The outcome of the meeting will be communicated to the employee within 14 days after the date of the meeting.
- 9.8 Appeal – the same process for appealing a decision will apply as detailed in section 7.0.
- 9.9 Exceptions to the Procedure and Withdrawals – please refer to section 8.0.

10.0 Advice and Further Information

- 10.1 For further guidance on the use of this procedure please contact the Personnel Department.

FLEXIBLE WORKING OPTIONS

Appendix A

Flexible Working covers a wide range of options including:

Part-time working – there is no set pattern to part-time working. It may involve a later start and earlier finish time than a full time position, working mornings or afternoons only, fewer working days in the week or any other arrangement of working time whereby the employee is contracted to work less than normal basic full-time hours.

Flexitime – allows employees to choose, within agreed limits, when to begin and end work. Employees may be required to work during some essential periods (Core times) and must work an agreed number of hours within an accounting 'period'. Outside core times are flexible bands when employees may choose whether to be at work or not. This enables employees to vary their start, finish and lunch times. Further details can be found in the Flexitime Policy which is available on the intranet or from the Personnel Department.

Staggered hours – allows employees to start and finish their day at different times. Pay will depend on hours worked in total rather than the time at which they are worked.

Compressed working hours – allows employees to work their total number of agreed hours over fewer working days e.g. a five day working week compressed into four days. They would be paid for a full-time job but would not receive overtime payments for the agreed extra hours they work in any one day.

Job sharing – involves two people carrying out the work which would normally be done by one person. The work is not split but shared. There is no set model for managing time which may involve working a set number of hours each day, each week or alternative weeks.

Shift working – gives employers the scope to have their business open for longer periods than an eight-hour day. Agreed flexible working arrangements may mean that a shift premium is not needed.

Term time working – allows employees to take unpaid leave of absence during the school holidays.

Annualised hours – is working time organised on the basis of the number of hours to be worked over a year rather than a week; it is usually used to fit in with peaks and troughs of work. Pay will depend on the hours worked each pay period.

Additional Leave entitlement - may be agreed either unpaid or paid with salary recalculated to take account of extra leave. Additional leave may also be agreed as part of an annual hours arrangement.

Homeworking – does not have to be on a full-time basis and it may suit an employee to divide their time between home and office. Employees are paid for the hours they work. A risk assessment will be carried out of the activities undertaken by the homeworker.

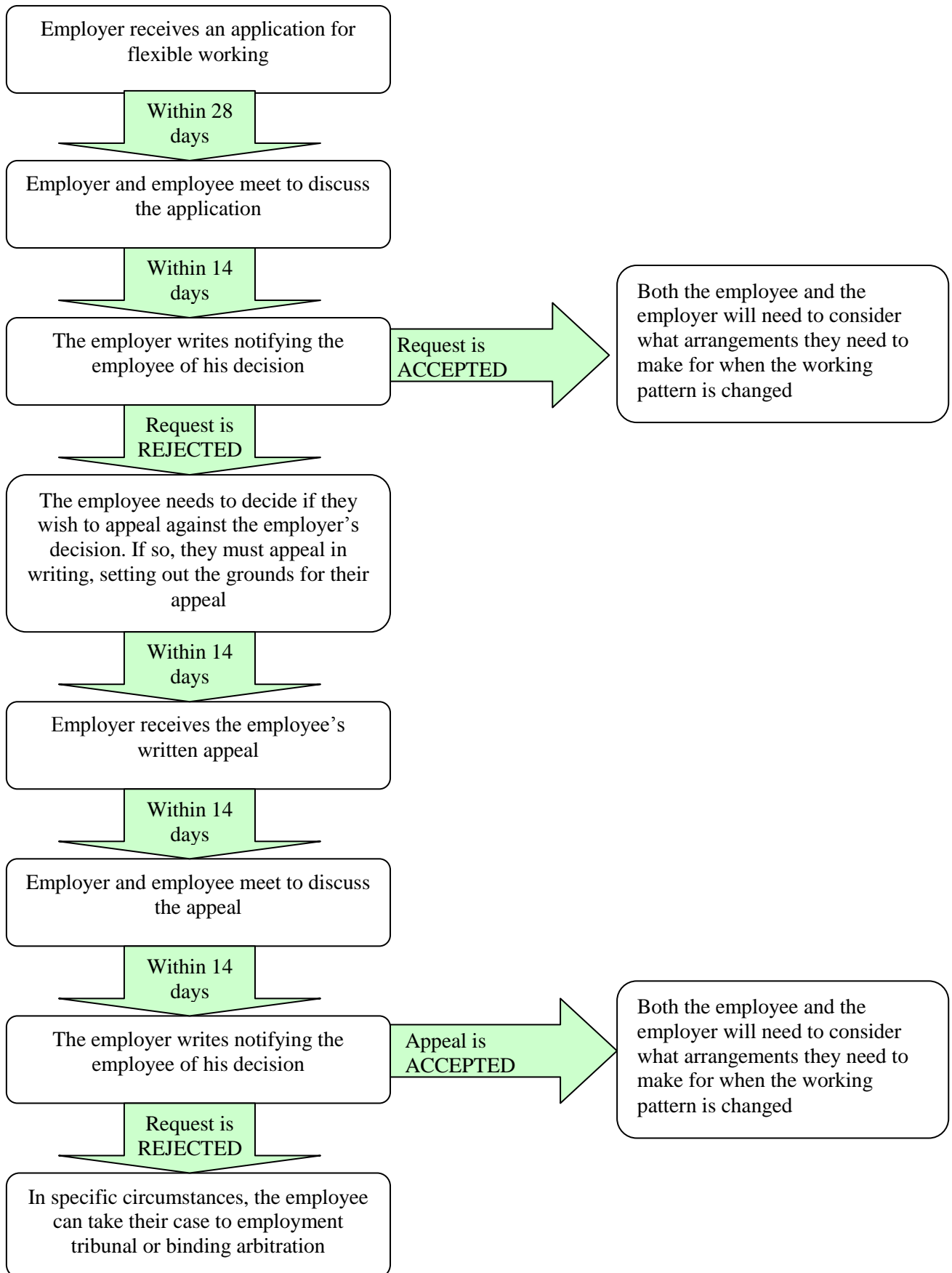
Unique working patterns – individually tailored patterns which may involve a combination of options.

North Yorkshire Fire & Rescue Service

Career breaks – unpaid breaks offered to employees with a guarantee that they will be able to return to work at the end of the agreed period.

Appendix B
Summary Flowchart of Process

How does the process work?



Form FW(A): Flexible Working Application Form

Note to the employee

You can use this form to make an application to work flexibly under the right provided in law to help eligible employees care for their children. Before completing this form, you should first read the guidance booklet *Flexible Working: the right to request and the duty to consider* (PL 520) and check that you are eligible to make a request. Guidance packs are available from Jobcentre Plus/Social Security offices or from www.dti.gov.uk/workingparents

You should note that under the right it may take up to 14 weeks to consider a request before it can be implemented and possibly longer where difficulties arise. You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect.

It will help your employer to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be valid. When completing sections 3 & 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues. Once you have completed the form, you should immediately forward it to your employer (you might want to keep a copy for your own records). Your employer will then have 28 days after the day your application is received in which to arrange a meeting with you to discuss your request. If the request is granted, this will be a permanent change to your terms and conditions unless otherwise agreed.

1. Personal Details

Name:

Personnel number:

Manager:

National Insurance No:

Employment Start date:

2. Previous Applications

Have you previously made an application under the Regulations? **YES / NO**

If YES, when was the last application made?

Date:

North Yorkshire Fire & Rescue Service

To the employer

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided in law. I confirm I meet each of the eligibility criteria as follows:

- I am the carer of an adult who is in need of care, and
- I have worked continuously as an employee of NYF&RS for the last 26 weeks, and
- I have not made a request to work flexibly under this right during the past 12 months.

OR

- I have responsibility for the upbringing of either a child under seventeen or a disabled child under 18, and
- I am:
 - the mother, father, adopter, guardian or foster parent of the child; or
 - married to or the partner of the child's mother, father, adopter, guardian or foster parent, and
- I am making this request to help me care for the child, and
- I am making this request no later than two weeks before the child's sixth birthday or 18th birthday where disabled, and
- I have worked continuously as an employee of NYF&RS for the last 26 weeks, and
- I have not made a request to work flexibly under this right during the past 12 months.

If you are unable to meet each of the criteria above then you do not qualify to make a request to work flexibly in law. This does not mean that your request may not be considered, but you will have to apply using form FW (H) Flexible Working Application Form (Non Statutory Right) where different conditions will apply.

2a. Describe your current working pattern (days/hours/times worked):

2b. Describe the working pattern you would like to work in future (days/hours/times worked):

(you may continue on a separate sheet if necessary)

2c. I would like this working pattern to commence from:

Date:

3. Impact of the new working pattern

I think this change in my working pattern will affect my employer and colleagues as follows:

4. Accommodating the new working pattern

I think the effect on my employer and colleagues can be dealt with as follows:

Name:

Date:

NOW PASS THIS APPLICATION TO YOUR EMPLOYER.



Cut this slip off and return it to your employee in order to confirm your receipt of their application

Employer's Confirmation of Receipt (to be completed and returned to employee)

Dear:

I confirm that I received your request to change your work pattern on: Date:

I shall be arranging a meeting to discuss your application within 28 days following this date. In the meantime you might want to consider whether you would like a fellow colleague to accompany you at the meeting.

From:

Form FW(B): Flexible Working Application Acceptance Form

Dear: Personnel Number

Following receipt of your application and our meeting on: Date:
I have considered your request for a new flexible working pattern.

- I am pleased to confirm that I am able to accommodate your application
 I am unable to accommodate your original request. However, I am able to offer the alternative pattern which we have discussed and you agreed would be suitable to you.

Your new working pattern will be as follows:

Your new working arrangements will begin from : Date:

Form FW(C): Flexible Working Application Rejection Form

Dear:

Personnel No:

Following receipt of your application and our meeting on:
I have considered your request for a new flexible working pattern.

Date:

I am sorry but I am unable to accommodate your request for the following business ground(s):

The grounds apply in the circumstances because:

If you are unhappy with the decision you may appeal against it. Details of the appeal procedure are set out below.

The Appeal Process

If your employer turns down your request for flexible working, you have the right to appeal against the decision. If you wish to appeal, you must write to your employer, setting out the grounds for your appeal, within 14 days after receiving written notice of his decision. You may use Form FW(D) for this purpose.

Form FW(D): Flexible Working Appeal Form

Note to the employee

If your application has been refused, you may appeal against your employer's decision. You can use this form to make your appeal. You should set out the grounds on which you are appealing, and do so within 14 days of receiving written notice that your application for flexible working has been turned down.

Dear:

I wish to appeal against your decision to refuse my application for flexible working. I am appealing on the following grounds:

(Please continue on a blank sheet if necessary).

Name :

Date :

NOW RETURN THIS FORM TO YOUR EMPLOYER.

Form FW(E): Flexible Working Appeal Reply Form

Dear:

Staff Number:

Following our meeting on:

Date:

I have considered your appeal against the decision to refuse your application to work a flexible working pattern.

I accept your appeal against the decision. I am therefore able to accommodate your original request to change your working pattern as follows:

Your new working arrangements will begin from:

Date:

~~Note to the employee~~

Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment and you have no right in law to revert back to your previous working pattern.

I am sorry but I must reject your appeal for the following ground(s):

The ground(s) apply because:

(Please continue on a blank sheet if necessary).

Name:

Date:

Form FW(F): Flexible Working Extension of Time Limit Form

Dear:

Staff Number:

I wish to extend the amount of time that the regulations allow me to:

- Arrange a meeting to discuss your application (28 days)
- Notify you of my decision regarding your application (14 days)
- Arrange a meeting to discuss your appeal (14 days)
- Notify you of my decision regarding your appeal (14 days)

I wish to extend the time limit to days. This means that I will have until:

to complete the necessary action. I need the extra time for the following reason:

If you agree to this extension, please complete the slip below and return it to me.

Signed:

Date:

NOW PASS THIS APPLICATION TO YOUR EMPLOYEE.

Note to the employee

To allow proper consideration of your request, your employer may wish to extend the permitted time limit for any part of the process. Your employer will need your agreement to any extension of the time limit. If you agree to the above request, please complete the agreement slip below and return it to your employer. See Section 6 of the guidance booklet for further details.



Cut this slip off and return it to your employer in order to confirm your acceptance of their request

Employee's Agreement to Time Extension (to be completed and returned to employer)

Dear:

I accept your request to extend the amount of time to

Signed:

Date:

Form FW(G): Flexible Working Notice of Withdrawal Form

Note to the employee

This form provides notification to your employer that you wish to withdraw your application to work flexibly. Once you have withdrawn your application, you will not be able to make another application until 12 months from the date your original application was made.

Dear:

I wish to withdraw my application to work flexibly which I submitted to you on

I understand that I will not be able to make another application until twelve months after the above date.

Name:

Date:

NOW RETURN THIS FORM TO YOUR EMPLOYER.



Cut this slip off and return it to your employer in order to confirm your receipt of their withdrawal notice

Employer's Confirmation of Withdrawal (to be completed and returned to employee)

Dear:

I confirm that I have received notice that you wish to withdraw your application for flexible working which you submitted to me on

Date:

Under the right to apply, you will not be eligible to submit another application until twelve months after the above date.

From:

Date:

Form FW(H): Flexible Working Application Form (Non Statutory Right)

Note to the employee

You can use this form to make an application to work flexibly. You should note that it may take several weeks to consider a request before it can be implemented and possibly longer where difficulties arise. You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect.

It will help your employer to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be valid. When completing sections 3 & 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues. Once you have completed the form, you should immediately forward it to your Manager. A meeting will then be arranged with you to discuss your request. If the request is granted, this will be a permanent change to your terms and conditions unless otherwise agreed.

1. Personal Details

Name:

Personnel number:

Manager:

National Insurance No:

Employment Start Date:

2. Previous Applications

Have you previously made an application under the Regulations?

YES / NO

If YES, when was the last application made?

Date:

To the employer

I would like to apply to work a flexible working pattern that is different to my current working pattern. I can confirm I meet each of the eligibility criteria as follows:

- I have worked continuously as an employee of NYF&RS for the last 26 weeks.
- I have not made a request to work flexibly under this right during the past 12 months.

2a. Describe your current working pattern (days/hours/times worked):

2b. Describe the working pattern you would like to work in future (days/hours/times) worked):

2c. Please detail your reasons for making the request for flexible working,

2d. I would like this working pattern to commence from:

Date:

3. Impact of the new working pattern

I think this change in my working pattern will affect my employer and colleagues as follows:

4. Accommodating the new working pattern

I think the effect on my employer and colleagues can be dealt with as follows:

Name:

Date:

NOW PASS THIS APPLICATION TO YOUR EMPLOYER .

Cut this slip off and return it to your employee in order to confirm your receipt of their application

Employer's Confirmation of Receipt (to be completed and returned to employee)

Dear:

I confirm that I received your request to change your work pattern on: Date:

I shall be arranging a meeting to discuss your application. In the meantime you might want to consider whether you would like a fellow colleague to accompany you at the meeting.

From: