

# North West Regional College Policy and Procedures

## Flexible Working Policy

<b>Scope of Policy</b>	All Staff
<b>Date of Review</b>	August 2024
<b>Next Policy Review date</b>	August 2027
<b>Version number</b>	Version 2
<b>Policy Owner</b>	Head of Human Resources
<b>Approved by</b>	Leadership and Management Team
<b>Date Approved</b>	1 October 2024
<b>Equality Screening Date</b>	August 2024

# North West Regional College

## Flexible Working Policy

### 1 INTRODUCTION

- 1.1 North West Regional College [referred to hereafter as the College] is committed to providing equality of opportunity in all employment policies and practices and is committed to the Employment Rights (NI) Order 1996\*.

[\*The primary law is set out in *Article 112F of the Employment Rights (NI) Order 1996, as amended*, and in associated regulations, namely, the *Flexible Working (Procedural Requirements) Regulations (NI) 2003* and the *Flexible Working (Eligibility, Complaints and Remedies) Regulations (NI) 2003*].

### 2 DEFINITION

- 2.1 Flexible working is a phrase used to describe any agreed working pattern adapted to suit the needs of the employee and employer. Common types of flexible working include a range of options, which allow employees to request to change the length or duration of their working pattern or working hours. Some of the most common type of arrangements which may be considered under a flexible working request include for example, reduced hours, part-time working, job-sharing, term-time working, and compressed hours or some combination of the above.

### 3 AIM

- 3.1 The aim of this policy is to promote and support good practice in relation to the application, approval and administration of Flexible Working requests and to support staff who need an adjustment to their working hours/arrangements to better enable them to combine their work commitments with their personal / home life.

3.1.1 This policy will be used and understood in conjunction with the following:

- The Equal Opportunities Policy
- The Hybrid Working Framework
- The Flexitime Scheme
- The Employment Rights (NI) Order 1996 (amended)
- The Flexible Working (Procedural Requirements) Regs (NI) 2003
- The Flexible Working (Eligibility, Complaints and Remedies) Regulations (NI) 2003
- The Sex Discrimination (NI) Order 1976 and 1988

- Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- The Disability Discrimination (NI) Act 1995 and 2000 (Amendment)
- Code of Practice – Disability
- The Freedom of Information Act 2000
- Flexible Working: the right to request and duty to consider – LRA Guidance <https://www.lra.org.uk/workplace-policies/flexible-working>
- Flexible Working: Equality Commission Guidance <https://www.equalityni.org>

***All of the above documents are available either from the Internet, the Staff Portal or from HR Services.***

## **4 OBJECTIVES**

- 4.1 The purpose of the policy is to define, as clearly as possible, the basis on which the College will consider and administer staff applications for Flexible Working.
- 4.2 The criteria for approving/declining applications will be determined by the needs of the College/Department, its students and staff, the requirements of the post itself and the needs of the individual.
- 4.3 The College will, where reasonably practicable, provide this policy in alternative formats on request, e.g., Braille, Large Print, Audio formats, etc, and/or alternative language.
- 4.4 The College is committed to promoting equality of opportunity and good relations in accordance with Section 75 of the Northern Ireland Act 1998. This policy should be interpreted in a manner consistent with the aforementioned legislation.

## **5 SCOPE OF POLICY**

- 5.1 This policy applies to all staff who have at least 26 weeks' service within the College and is relevant when staff request to reduce or amend their working hours or working pattern.

## **6 LEGAL AND CONTRACTUAL FRAMEWORK**

- 6.1 Under provisions set out in the Employment Rights (Northern Ireland) Order 1996\* and regulations made under it, all employees have a statutory right to request a change to their contractual terms and conditions of employment to work flexibly. The

statutory right is a 'right to request' and not a right to be granted flexible working. Employers can, after careful consideration, either approve or reasonably decline an application where there is a legitimate reason.

- 6.2 An employee must have worked for NWRC for 26 weeks' continuously at the date the application is made and can only make one statutory request in any 12-month period.
- 6.3 Employees should bear in mind that, under the statutory procedure, the process of making a request and for your employer to consider it, can take up to 14 weeks. So, if you are considering making a request to change your working pattern, you should speak to your Line Manager as early as possible and complete the Flexible Working Application Form [available on the A-Z of Resources on the Staff Portal].
- 6.4 **Important Contractual Note:** If you request a flexible working pattern that results in you working fewer hours, your working hours and pay will reduce accordingly and the reduced pay/hours will be used for statutory/contractual pay-related calculations [such as maternity/paternity/sick pay, redundancy/severance calculations etc]. Such a change will also impact on pension calculations [if you are a pension scheme member]. Therefore, you should seek appropriate advice and guidance from HR and/or benefits and pensions providers before submitting or agreeing to a flexible working request.

## 7 APPLICATION OF POLICY

- 7.1 The College recognises that staff are its most valuable resource. The College also acknowledges that staff often perform better when their working arrangements balance with their personal circumstances / home commitments. Therefore, in line with *The Right to Request Flexible Working Arrangements - Article 112F of the Employment Rights (NI) Order 1996\**, the College will consider all requests for a flexible working arrangement. All applications will be processed on the basis of this policy and in accordance with Equality Legislation and the Employment Rights (NI) Order 1996\*.
- 7.2 It is recognised that, due to the nature of a Lecturers' Contract, Teaching Staff have the opportunity to discuss their Programme of Duties each semester. In many cases, flexible working patterns can be agreed as part of this process. However, if a reduction in hours is required, it will be necessary to submit a Flexible Working Request for consideration under this policy.

## 8. PROCEDURE FOR MAKING AN APPLICATION

- 8.1 Staff considering a flexible working arrangement can get advice from their Line Manager or a member of the HR Team.
- 8.2 Staff can request either a permanent or temporary change to their working arrangements. If temporary changes to working arrangements are requested, the maximum period is two years from the date of commencement from the original request for flexible working. Staff who have availed of temporary arrangements for two years' will only be able to request any further changes on a permanent basis. The business needs of the College, it's staff and students as well as the needs of the individual should be taken in to account when making and considering requests.
- 8.3 Staff interested in a flexible working arrangement are required to complete the online Flexible Working Application Form which can be accessed on the A-Z of Resources on the Staff Portal.
- 8.4 The completed application form should be submitted to the Line Manager detailing in writing the reason for the request and the working hours/pattern preferred. Before making an application, it would be helpful for staff to consider the most appropriate working hours/pattern for their needs, the financial implications including pensions, salary reduction and the possible effects on the College, and how these might be dealt with.
- 8.5 The Line Manager will consider the request and establish whether the desired working pattern meets the needs of the department.
  - 8.5.1 If the Line Manager **can accommodate** the flexible working request and it meets department needs, the Line Manager will click 'Accept' on the Flexible Working Request email and the form will be sent to HR Services confirming that the request has been accepted. HR Services will then write to the employee within 28 days of receipt of the application, specifying the contract variation agreed to and the start date.
  - 8.5.2 If the Line Manager **cannot accommodate** the flexible working request, the Line Manager must notify HR Services within 5 working days of receiving the request by clicking on the 'Request a Meeting' button on the Flexible Working request email. HR Services will arrange a meeting within 28 days of the date the request was received, involving the Line Manager, the staff member and a HR Officer.
- 8.6 The meeting should be an opportunity for a discussion of the request, the issues it raises for the College and any alternative options available.
- 8.7 Following the meeting HR Services will write to the applicant within 14 days either:

- 8.7.1 accepting the request, setting out any action on which the agreement is dependant and establishing a start date; **or**
- 8.7.2 confirming the compromise offered in the meeting and setting a date for a response; **or**
- 8.7.3 rejecting the request and giving a short explanation of the business reasons for refusal and setting out the appeals procedure.

An application can only be rejected where there is a clear business reason. The only business grounds on which a request for flexible working can be rejected are listed below:

- burden of additional costs;
- 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 on performance;
- insufficiency of work during the periods the employee proposes to work;
- planned structural changes.

- 8.8 The staff member should be given 14 days from the date they receive the outcome of the meeting, to appeal against the decision. The grounds of the appeal must be set out in writing and emailed to HR.
- 8.9 If an application for flexible working is unsuccessful, no further requests will be considered within the 12-month period from the initial application being received. If a successful application comes to an end, the individual cannot apply for at least a 6-month period from the date of expiry, unless there are exceptional circumstances.

It should be noted that all approved temporary arrangements are subject to review and based on the needs of the College.

- 8.10 **Temporary or Trial Arrangements:** At the end of a trial period/temporary reduction or adjustment in working arrangements, HR Services will write to the Line Manager to advise that the arrangement is due to come to an end, and they should arrange to meet the individual to establish their intentions with regards to a return to normal working hours, an extension to the arrangement or, in the case of a reduction in hours, a request for an arrangement to be made permanent.

- 8.11 HR Services will advise the Line Manager that they must give careful consideration as to whether or not this arrangement can be extended or made permanent and should take account of the following information:
- The burden of additional costs;
  - Ability to reorganise work among existing staff;
  - Ability to recruit additional staff;
  - Impact on quality;
  - Impact on ability to meet customer demand;
  - Impact on performance;
  - There is insufficient work during the periods the employee proposes to work;
  - Planned structural changes.
- 8.12 The Line Manager will then arrange to have the staff member complete the relevant paperwork, and sign and return to HR Services within 5 working days of the meeting.
- 8.13 HR Services will then communicate this decision in writing to the staff member and advise of the right to appeal the decision [if not approved].

## **9 APPEAL PROCESS**

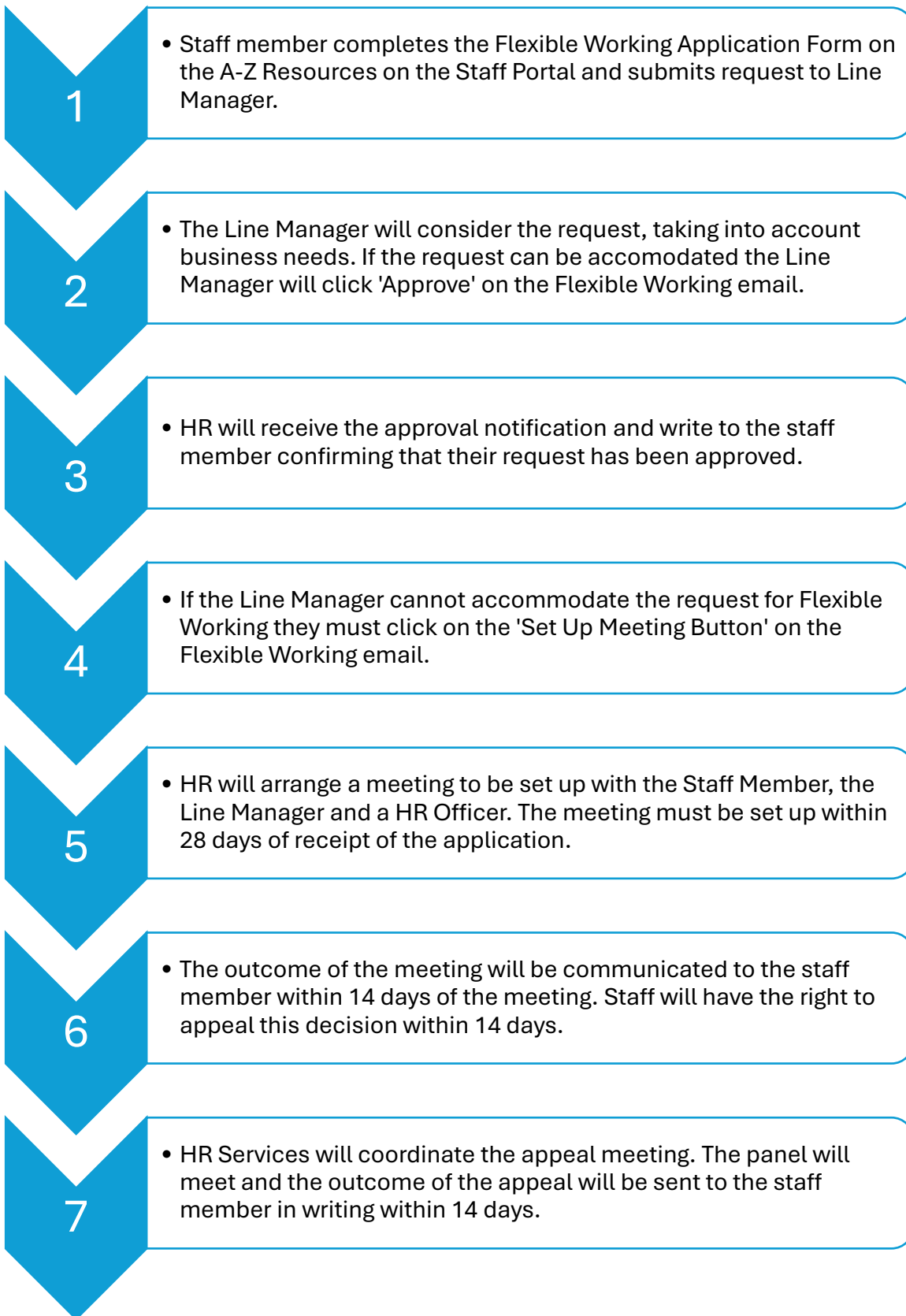
- 9.1 If an application for flexible working is not approved, the staff member can appeal the decision within 14 days from the date they receive notification that the request has not been approved. The staff member must set out the reasons for the appeal in writing and email this to the HR representative who sent out the decision correspondence.
- 9.2 An appeal panel will be established to hear the Appeal consisting of one Director and one Head of Faculty/Department (not previously involved).
- 9.3 The outcome of the appeal will be provided in writing to the applicant within two weeks from the date of the appeal hearing.
- 9.4 If this appeal is unsuccessful, applicants may have the right to submit a complaint to an Industrial Tribunal.
- 9.5 The College, where possible will facilitate such staff requests. However, on occasions, because of organisational requirements, this may not always be possible.

## **10 MONITORING**

- 10.1 The policy will be reviewed every 3 years to ensure equality of opportunity.

## Appendix 1

### Flexible Working Request – Procedure Flowchart





## **Appendix 2**

### **Managers Guide**

#### **Rights and Responsibilities**

When making an application for Flexible Working, the initial onus is on the employee to prepare a carefully thought-out application well in advance of when they would like the desired working pattern to take effect. The manager/ employer then follows College policy and procedures to help ensure a request is considered seriously, which seeks to facilitate discussion and enables both parties to gain a clear understanding of each other's thinking. An employer may only refuse a request for flexible working where there is a recognised 'business ground' for doing so.

#### **Consideration on Business Grounds:**

As an employer we must consider requests for Flexible Working on 'business grounds' and can reject an application for one of the following business reasons:

- burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to reorganise 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

#### **Eligibility**

To be eligible to make a request under this right, a person must:

- be an employee
- have worked for the College continuously for 26 weeks at the date the application is made
- not be an agency worker or a member of the armed forces and
- not have made another application to work flexibly under the right during the past 12 months.

#### **Employees' Rights**

- To apply to work flexibly
- To have their application considered properly in accordance with the set procedure and refused only where there is a clear business ground for doing so

- To be accompanied by a TU or work colleague when meeting the employer to discuss the application.
- Where an application is refused, to have a written explanation explaining why.
- To appeal against the employer's decision to refuse an application.
- To take a complaint to an industrial tribunal or under the Labour Relations Agency's Arbitration Scheme in certain circumstances.
- To be protected from detriment or dismissal for making an application under the right.

### **Employees' Responsibilities**

- To provide a carefully thought-out application.
- To ensure their application is valid by checking that the eligibility criteria are met.
- To ensure the application is made well in advance of when they want it to take effect.
- To arrive at meetings on time and to be prepared to discuss their application in an open and constructive manner.
- If necessary, to be prepared to be flexible to reach an agreement with the employer.

### **Employers' Rights**

- To approve an application or to reject an application when proper consideration has been given and when the desired working pattern cannot be accommodated within the needs of the College [ see Section on Recognised Business Grounds].
- To seek the employee's agreement to vary or extend time scales where it is appropriate
- To consider an application withdrawn in certain circumstances.

### **Employers Responsibilities**

- To consider requests properly in accordance with the set policy and procedure.
- To ensure they adhere to the time limits contained within the procedure.
- To provide the employee with appropriate support and information during the course of the application.
- To decline a request only where there is a specified business ground (as set out in Art. 112G (1)(b) of the Employment Rights (Northern Ireland) Order 1996) and to explain to the employee in writing why it applies.
- To ensure that any variation from the procedure is agreed with the employee and recorded in writing.
- To ensure that they do not subject the employee to detriment or dismissal for making an application under the right.

Please seek HR guidance and support if unsure.

Line Managers are encouraged to read the Labour Relations Agency Guidance on Flexible Working. These can be accessed via the links below:

- <https://www.lra.org.uk/resources/advisory-guide/flexible-working-law-and-good-practice-guide-employers>
- <https://www.lra.org.uk/resources/advisory-guide/flexible-working-right-request-and-duty-consider>

## Summary of Changes

<b>Version No</b>	<b>Policy Owner</b>	<b>Changes</b>	<b>Date</b>
2	Human Resources Manager	Section 6: Legal and Contractual Framework - Policy adjusted to reflect Statutory requirements  Appendix 1: Flow chart added.  Appendix 2: Managers Guide and Templates added.	24 August 2024

