

## Appendix 19

### FLEXIBLE WORKING

Statutory rights in accordance with the Employment Act 2006 came into force for eligible employees on or after 30<sup>th</sup> September 2007.

#### 1. WHAT IS FLEXIBLE WORKING?

1.1 Flexible working involves different patterns of work, i.e. a change in working hours;

- a change to the times when an employee is required to work;
- to work from home or the employer's place of business.

1.2 Unless a temporary period has been agreed, the new pattern of working will be a permanent change; there will be no automatic right to revert to former hours.

#### 2. WHO IS ELIGIBLE TO MAKE A REQUEST?

2.1 All employees are eligible to make a request for flexible working under the provisions of the Employment Act 2006 and Flexible Working Regulations 2020.

#### 3. CONSIDERING A REQUEST

3.1 In accordance with the Employment Act 2006, there is a legal duty on employers to consider a request for flexible working which has been properly made (see paragraph 5 below), and to establish whether the request can be accommodated within the needs of the business. There is a set procedure to follow (see paragraph 8 below). The timeframes included are recommended although requests must be dealt with in a reasonable manner and an employee notified of the outcome within a standard period of 3 months, (which can be extended by agreement), and includes any appeal.

3.2 An employee may not make a request for flexible working if he/she has made a formal request in the previous 12 months (whether or not the request was successful).

#### 4. TRIAL PERIOD

4.1 A trial period of flexible working may be appropriate prior to a formal agreement being reached; this option may give both the employee and the line manager the opportunity to see if such an arrangement would be satisfactory.

4.2 The line manager could give informal agreement to a trial before a formal flexible working request is made by the employee. The formal stage of application would still be available to the employee in the future.

- 4.3 If a formal application is made, an extension of time for the line manager to make a decision could be agreed and the trial period could happen before a final agreement takes place. The rest of the formal procedure would still be available to the employee.

## **5. REQUESTING FLEXIBLE WORKING**

- 5.1 A request for flexible working must be in writing, dated appropriately, stating that it is a request for flexible working, also stating whether a previous request has been made by the employee and if so, when (an employee may not make a request for flexible working if he/she has made a formal request in the previous 12 months – whether or not the request was successful). The Flexible Working Application Form at [Annex 1](#) can be used for this purpose. Any request will require the following information to be included:

- Current working pattern
- Proposed new working pattern
- Date for the proposed new working pattern to commence
- The employee's views on the impact on the post/department and how this may be addressed

- 5.2 Once completed, the employee must submit the application form to the line manager, who will return the acknowledgement slip on the form.

- 5.3 The written application may be returned if all information is not completed and the request for flexible working may not be considered until all required information is completed accordingly. If the employee making the request fails or refuses to provide the information, the line manager may treat the request as withdrawn and notify the employee in writing (Flexible Working Notice of Withdrawal Form at [Annex 2](#) can be used for this purpose)

- 5.4 If the line manager agrees to the proposed changes in working pattern, confirmation will be issued in writing, within 28 days of the request being made. If the line manager is not able to agree to the request within that time, a meeting to discuss the application must be arranged with the employee making the request, within 28 days of the request being made.

- 5.5 If an employee fails to attend a meeting without notification more than twice, without a reasonable explanation, the request may be treated as withdrawn and the line manager will confirm this in writing to the employee (see form at [Annex 2](#)).

## **6. RIGHT TO BE ACCOMPANIED**

- 6.1 When meeting with the line manager to discuss the request for flexible working, an employee has the right to be accompanied by a work colleague (who may be a trade union representative). The colleague may address the meeting or confer with the employee during the meeting, but cannot answer questions on the employee's behalf.

## **7. WITHDRAWING A REQUEST FOR FLEXIBLE WORKING**

- 7.1 An employee may withdraw a request for flexible working, verbally or in writing, at any time before the line manager notifies him/her of the decision. The line manager will confirm that the request has been withdrawn in writing (see form at [Annex 2](#)).

## **8. PROCEDURE FOR MANAGEMENT TO FOLLOW**

- 8.1 On receipt of an accurately completed application for flexible working (see form at [Annex 1](#)), the line manager will acknowledge receipt of the request (see acknowledgement slip on form at [Annex 1](#)) and then must:
- If the request is agreed, confirm agreement to the request in writing within 28 days of receipt (being date sent if emailed/faxed or, if posted, the date it would normally have been delivered), stating details of new working pattern as set out in the request and the date on which the change is to take effect; or
  - If unable to agree, arrange a meeting with the employee making the request, within 28 days of the request being made, to discuss the matter further and consider how the request may be accommodated (i.e. alternate proposal for hours), or perhaps agree a trial period. The 28 day time period for this meeting may be extended with agreement of the employee, and this agreement is to be confirmed in writing to the employee (Flexible Working Extension of Time Limit Form at [Annex 3](#) can be used for this purpose)
- 8.2 The employee is entitled to be accompanied at a meeting with the line manager to consider the request for flexible working. If the colleague is unable to attend the meeting, the employee can request that the meeting be re-scheduled within 7 days of the original time, at a time convenient to both parties and the colleague. If this cannot be achieved, the employee should consider asking another colleague to attend the meeting.
- 8.3 There is a duty for the line manager to consider a request for flexible working which has been properly made, and to establish whether the request can be accommodated within the needs of the business.
- 8.4 Once a decision is made, the line manager will notify the employee of that decision in writing, either:
- within 28 days of receipt of the request if agreed, or
  - within 14 days of any meeting held to discuss the matter following receipt of request
- The Flexible Working Application Acceptance Form at [Annex 4](#) or Flexible Working Application Rejection Form at [Annex 5](#) can be used for this purpose. Copies of the signed and completed form must be sent to the Office of Human Resources.
- 8.5 If the request for a change of working pattern is refused, the line manager will advise the employee of their right to appeal.
- ## **9. REFUSING A REQUEST**
- 9.1 A request may only be refused where the employer has a clear business reason for doing so. If an employee is dissatisfied with the manager's decision to refuse their request for flexible working, he/she can appeal the decision, requiring the decision to

be reconsidered by an authority higher than that which took the decision, usually the next senior manager.

9.2 A refusal to a request for flexible working must be confirmed in writing (see Form at [Annex 5](#)), stating the specific business ground and an explanation, including key facts, about why the business ground applies.

9.3 The only grounds on which an employee's request for flexible working can be refused are on one or more of the following:

- the burden of additional costs
- its detrimental effect on the business' ability to meet customer demands
- inability to re-organise the employee's work among existing staff
- inability to recruit additional staff
- a detrimental impact on quality
- a detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes

## **10. RIGHT OF APPEAL**

10.1 If an employee is dissatisfied with the line manager's decision to refuse their request for flexible working, he/she can appeal the decision, requiring the decision to be reconsidered by an authority higher than that which took the decision, usually the next senior manager.

## **11. APPEAL PROCEDURE**

11.1 An appeal must be made in writing to the line manager who made the decision, within 14 days of the date the employee received written notification of the decision. The written appeal must be dated accordingly and set out the grounds for the appeal (Flexible Working Appeal Form at [Annex 6](#) can be used for this purpose).

11.2 The line manager will arrange for a senior manager to hear the appeal. The senior manager must arrange an appeal meeting to take place within 14 days of receiving the notice of appeal. The employee has a right to be accompanied at this meeting (see paragraph 5 above). If the senior manager needs more time to arrange an appeal meeting, agreement should be sought from the employee making the appeal to extend the period and this agreement confirmed in writing (see Form at [Annex 3](#)).

11.3 The senior manager will inform the employee of the outcome of the appeal, in writing, within 14 days of the date of the meeting (see Flexible Working Appeal Reply Form at [Annex 7](#)). If the senior manager needs more time to come to a decision, agreement should be sought from the employee making the appeal to extend the period, and this agreement confirmed in writing (see Form at [Annex 3](#)).

11.4 If an employee remains dissatisfied with the way his/her request for flexible working has been dealt with, further action may be progressed through an informal discussion or via the organisation's Grievance Procedure.

## Flexible Working Application – Process - Flow Chart

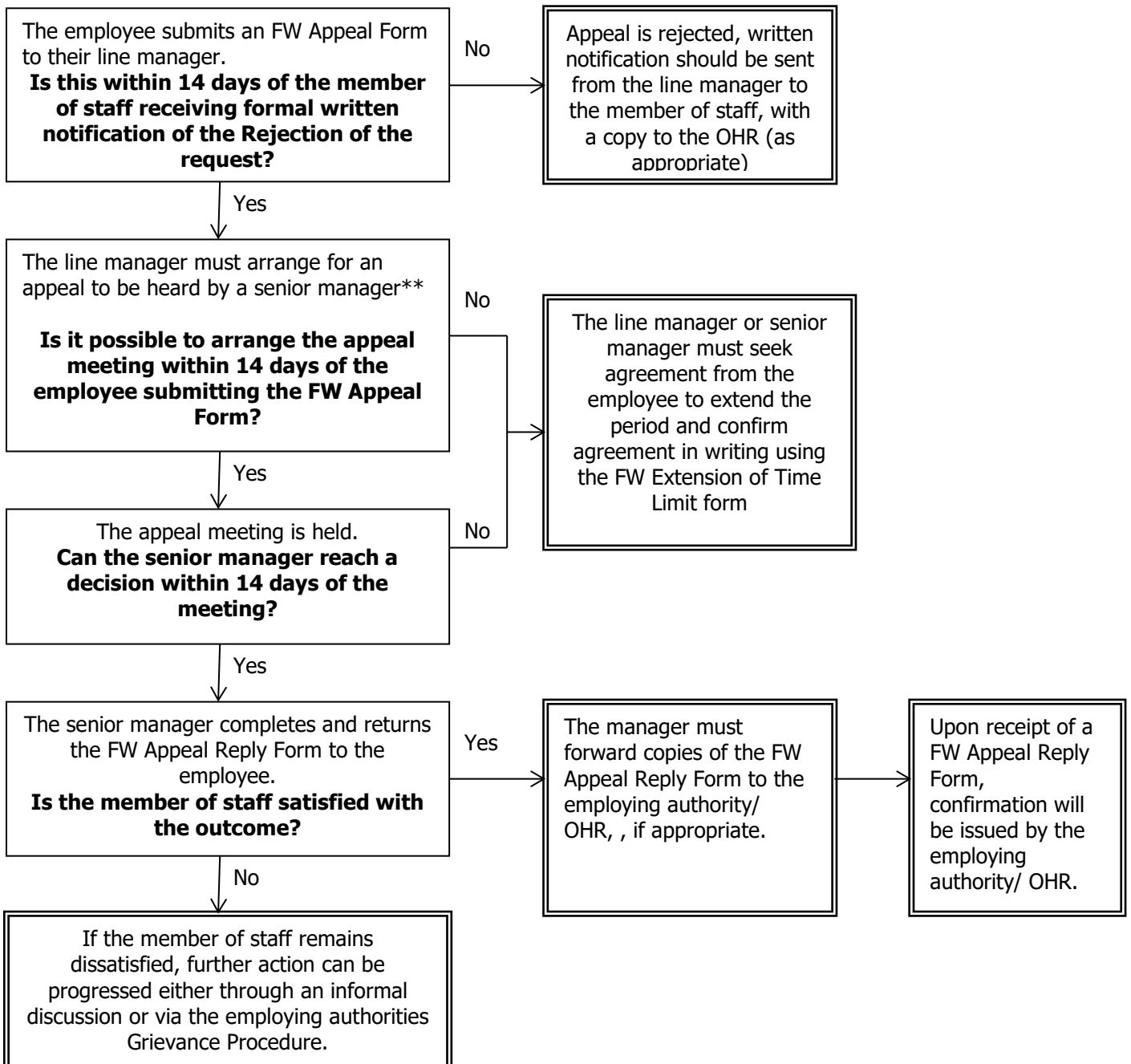
**All forms are available from your Employing Authority**

\*Manager should consider whether the request can be accommodated in line with business needs. The situation may be discussed with the line managers own HR Department or an HR Adviser within the Office of Human Resources.

\*\*The employee is entitled to bring a work colleague to the meeting. If the companion is unable to attend the meeting on the specified date then the employee can request the meeting to be rescheduled to a time within 7 days of the original meeting date.

## Flexible Working Application – Appeals Process - Flow Chart

Where an employee is dissatisfied with their line manager’s decision to refuse their request for flexible working, they have a right to appeal, which will be heard by a higher authority than that which took the initial decision



**Form FW(A): Flexible Working Application Form**

**Note to the EMPLOYEE**

You can use this form to make an application to work flexibly.

You should note that it may take up to **14 weeks** (as provided for within legislation) 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 line manager 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 line manager (you might want to keep a copy for your own records). Your line manager will then have 28 days after the day your application is received in which to hold 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.

**Note to the Manager**

This is a formal application made under the employee's legal and contractual right to apply for flexible working; there is a duty on the line manager to consider applications seriously.

You have 28 days after the day you received this application in which to either agree to the request or arrange a meeting with the member of staff to discuss their request. You should confirm receipt of this application using the attached confirmation slip.

**1. Personal Details**

Name:

Department

Manager:

Division

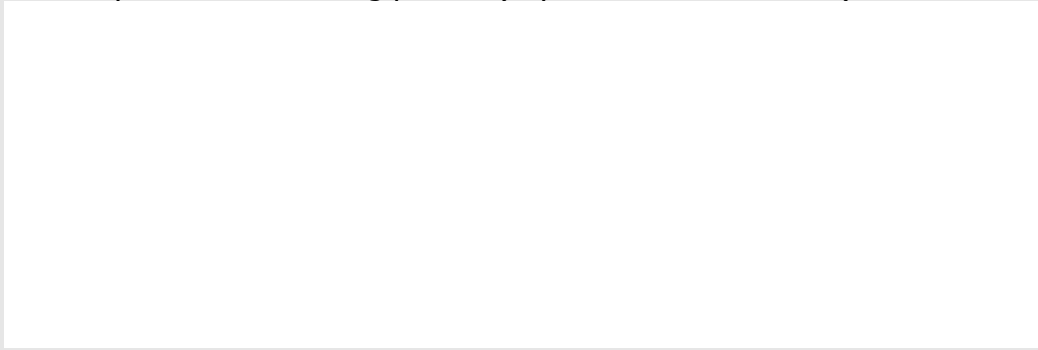
To the Manager

I would like to work a flexible working pattern that is different to my current working patterns under my legal and contractual right. I confirm I meet the eligibility factors as follows:

Eligibility requirements

- I am an employee
- I have/have not (*delete as appropriate*) made another formal application to work flexibly during the past 12 months.

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



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



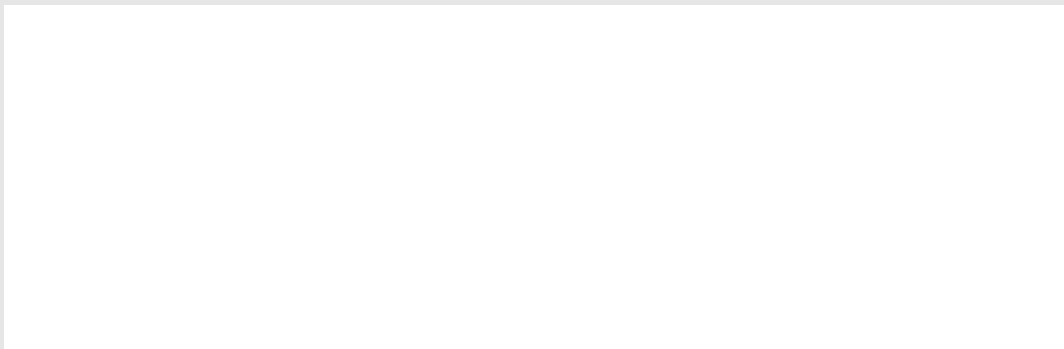
You may continue on a separate sheet if necessary

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

Date:

3. Impact of the new working pattern:

I think this change in my working pattern will affect my role, department and colleagues as follows:





4. Accommodating the new working pattern

I think the effect on my role, department and colleagues can be dealt with as follows:

You may continue on a separate sheet if necessary

Name:

Date:

.....✂.....

**MANAGER**

Detach this slip and return it to the employee in order to confirm receipt of this application

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 to the meeting.

From:

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

Note to the EMPLOYEE

This form provides notification to your manager that you wish to withdraw your application to work flexibly.

Dear

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

Signed  Date

Name

**NOW RETURN THIS FORM TO YOUR MANAGER**

**Note to the Manager**

Once the member of staff has completed this form and returned it to you, the application is considered as withdrawn and you are not required to give it any further consideration.

You should complete the slip below and return it to the member of staff to confirm your receipt of the withdrawal notice.

✂-----

**Manager'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 on

Signed

Date

Position in Organisation

## Annex 3

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

#### Note to the Manager

This form is provided for you to complete when confirming agreement with the employee that you wish to extend a time limit for part of the procedure, from that set out in the Appendix 19. You may extend the time limit for any part of the process, providing the employee agrees to the extension.

Dear

Position/Grade:

I wish to extend the amount of time 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(s):

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

Name

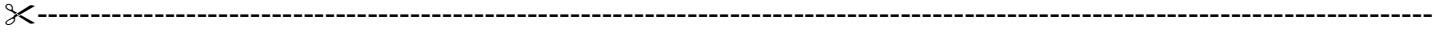
Date

Position in organisation

### NOW PASS THIS APPLICATION TO THE EMPLOYEE

#### Note to the EMPLOYEE

To allow proper consideration of your request, your manager may wish to extend the permitted time limit for any part of the process. Your manager 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 manager.



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

Employee's agreement to Time Extension **(to be completed and returned to manager)**

Dear

I accept your request to extend the amount of time to

Signed  Date

Name

## Annex 4

### FW(B): Flexible Working Application Acceptance

#### Note to the Manager

You must write to the employee with your decision within 14 days following the meeting. This form can be completed by the line manager when accepting an application to work flexibly. If you cannot accommodate the requested working pattern you may still wish to explore alternatives to find a working pattern suitable to you both.

Please note that *Annex 5: Flexible Working Application Rejection Form* may be used if the employee's working pattern cannot be changed, and no other suitable alternatives can be found.

Dear

Post/Grade:

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 for you.

Your new working pattern will be as follows:

Your new working arrangements will begin from:

Date

#### Note to the employee

Please note that unless otherwise agreed, 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.

If you have any questions on the information provided on this form please contact me to discuss them as soon as possible.

Name

Date

Position in organisation

Copy To: Office of Human Resources (as appropriate)

## Annex 5

### Form FW (C) Flexible Working Application Rejection

#### Note to the Manager

You must write to the employee within 14 days of the meeting, with your decision. This form can be completed by you when declining an application. Before completing this form you must ensure that full consideration has been given to the application. You must state the business ground(s) as to why you are unable to agree to a new working pattern and the reasons why the ground(s) applies in the circumstances.

Dear

Position/Grade:

Following receipt of your application and our meeting on:

Date:

I have considered your request for a new flexible working pattern.

I am sorry but I am unable to accommodate your request for the following business reasons:

These grounds apply because:

You should explain why any other work patterns you may have discussed at the meeting are also inappropriate. Please continue on a blank sheet if necessary

If you are unhappy with the decision you may appeal against it. Details of the appeal procedure can be found in Appendix 19, paragraph 11.

Name

Position in  
organisation

Date

The Appeal Process (see Appendix 19)

To the Employee

If your line manager 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 line manager, setting out the grounds for your appeal, within 14 days after receiving written notice of the decision.

To the Manager

If you reject the employee's request for flexible working, the employee has the right to appeal against your decision.

If the employee appeals against your decision to refuse a request for flexible working, you must arrange for a more senior manager to meet with the employee to discuss the appeal within 14 days after receiving the appeal letter.

After that meeting has been held, the senior manager must write to the employee within 14 days to notify him/her of the outcome of the appeal.

**NOW RETURN THIS FORM TO THE EMPLOYEE**

**Copy to:** Office of Human Resources (as appropriate)

**Form FW (D) Flexible Working Appeal**

**Note to the employee**

If your application has been refused, you may appeal against your line manager'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.

**Note to the Manager**

This is a formal appeal made under the legal and contractual right to apply for flexible working. You have 14 days following receipt of this form in which to arrange a meeting with the employee to discuss their appeal.

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 MANAGER AND KEEP A COPY.**



**Form FW (E) Flexible Working Appeal Reply Form**

**Note to the Senior Manager**

You may complete this form when replying to an appeal that an application to work flexibly has not been properly considered.

You must return this form to the employee, giving notice of your decision, within 14 days of the meeting at which you both discussed the appeal. If you decide to turn down the appeal, you must state the grounds for your refusal.

Dear

Position:

Following our meeting on:

Date

I have considered your appeal against the decision to refuse your application to work a flexible working pattern and 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 unless otherwise agreed, 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 separate sheet if necessary.

Name

Date

Position in  
organisation

Copy To:      Office of Human Resources (as appropriate)