

PROPOSED AMENDMENT TO THE PSC Civil Service Regulations 2015

Ref:	PSC 15-118 PSC Manual & Craft MOA Appendix 19 – Flexible Working
Re:	Amendments to the Flexible Working Provisions
Proposal:	To provide clarification to terms used throughout the text
<p>Existing Regulation:</p> <p style="text-align: right;">(Article 50)</p> <p style="text-align: center;">Appendix 19</p> <p style="text-align: center;">FLEXIBLE WORKING</p> <p>Statutory rights in accordance with the Employment Act 2006 came into force for eligible employees on or after 30th September 2007.</p> <p>1. WHAT IS FLEXIBLE WORKING?</p> <ul style="list-style-type: none">• 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. <p>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.</p> <p>2. WHO IS ELIGIBLE TO MAKE A REQUEST?</p> <p>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.</p> <p>3. CONSIDERING A REQUEST</p> <p>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.</p> <p>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).</p> <p>4. TRIAL PERIOD</p>	

- 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.

Proposed Regulation

(Article 50)

Appendix 19

FLEXIBLE WORKING

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

1. WHAT IS FLEXIBLE WORKING?

- 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 or a different location.

- 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 hour terms and conditions.

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

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- Current working pattern
- Proposed new working pattern e.g. change or working hours, times required to work or to work from home, the employer's place of business or a different location
- Date for the proposed new working pattern to commence
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- 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.

Agreed and authorised by:

Signed on behalf of
Prospect

M. C. Havel

Date: 9/10/2020

Signed on behalf of Unite
the Union

D. Halson

Date: 9/5/10/2020

Signed on behalf of the
Commission

[Signature]

Date: 7/10/2020

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For Office of Human Resources Use Only

Instruction for implementation:

Passed to..... Bryan Douglas

By..... Ruth Hussey

Date 15/10/2020

An IOM Government All Staff Notice prior to implementation ~~is~~*/is not* required (*please delete as appropriate)

Signed [Signature]

Head of Industrial Relations and Policy Section

Date MOA updated:

Website [Signature]

Date..... 15-10-20

Previous PSC Memorandum of Agreement amendment reference (if any) :	
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<u>Notes/Special Instructions:</u> Communication to Pay Sections required
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