



# **BRAUNSTONE TOWN COUNCIL**

Serving the communities of Braunstone Town and Thorpe Astley

## **WORKING TIME AND FLEXIBLE WORKING** **(including Home / Hybrid Working)** **POLICY & PROCEDURE**

### Purpose and Scope

1. This Policy and Procedure sets out details of how flexible working requests, working time and annualised hours are managed to ensure fairness and maintain a work-life balance.
2. The Policy and Procedure applies to all employees of Braunstone Town Council, whether full or part time, permanent or fixed term. The Policy & Procedure does not apply to agency workers or employees of contractors.

### Principles

3. Braunstone Town Council is committed to fostering a positive, healthy, productive and flexible working environment built upon employees' work-life balance and equal opportunities.
4. The Town Council will maintain working arrangements that strike a balance between delivering high and efficient standards of service while enabling employees to achieve a work-life balance.
5. The Council fully recognises its obligations under the Working Time Directive and Flexible Working Regulations and will ensure that employees take appropriate rest from work and are able to work flexibly where this supports the employee and avoids any detriment on the Council's ability to undertake its business and deliver its services efficiently and effectively.
6. Due to the nature of the Council's work all staff are expected to be flexible and supportive of one another. It is a condition of employment for all Employees that everyone is expected to co-operate with Management to ensure work is completed within the necessary time scales and to the required standard.

### Hours of Work

7. The Law requires the Council to ensure its employees working hours do not exceed those set out in the Working Time Directive:
  - a) no more than 11 consecutive hours can be worked on any working day, and
  - b) no employee can work more than 48 hours in any one week.
8. Any employee who wishes to exceed the limits set out in 7 above must notify their Line Manager in writing in advance to confirm agreement to opt out of the Working Time Regulation limits. Any employee who exercises this option must not exceed 12 hours on any working day or 60 hours in any week.

9. Staff must not work over 6 hours without taking a break of at least 20 minutes.

### Annualised Hours

10. Employee working hours are annualised to facilitate flexible working. This pattern is based on calculating the employees total contracted working hours in a year and then allowing them to work in a way that means that more than the average weekly hours are worked at some times of the year and less than the average weekly hours at other times. For example, a member of staff is contracted to work 37 hours per week for 40 weeks of the year; therefore, the total annual hours would be  $40 \times 37 = 1480$ . This employee could agree with their Line Manager to work for 20 weeks of the year at 45 hours per week and 20 weeks at 29 hours per week.
11. This pattern is generally suitable where work has predictable peaks and troughs; e.g. Duty Officer – Community Centres and Cleaner & Premises Operative. The benefit to the Employee is that they aren't spending 'down time' at work, but can organise their working hours over the year to spend 'down time' outside work. Therefore, there may be a motivational benefit to the Employee that would in turn benefit Braunstone Town Council. Other benefits to the Employee include spending more time with the child or dependant, less money spent on child or nursing care, more work life balance to spend time with family members.
12. Employment Contracts detail each employees' core hours over a period. The working pattern within and outside these core hours is flexible and will be determined by the Line Manager in consultation with the member of staff.

### Recording Working Hours

13. All staff must record their actual working hours on their timesheet for the period.
14. The exception to the above is where employees are entitled to claim for additional hours payment where Management require them to work additional shifts to cover for holidays, sickness and for vacant establishment hours. Additional hours for which payment is being claimed should only be filled in on the Additional Hours Claim form and submitted no later than the timesheet for the same period.
15. Where the employee takes annual leave, the total number of leave hours approved by the Line Manager on the employees' leave card should be inserted into the appropriate column on the timesheet for that date. The employee must not enter the hours they would have worked.
16. Where an employee takes a day off in lieu of additional hours worked (i.e. they are in credit of hours); then "Toil" should be entered in the appropriate column. The employee must not enter either the total number of hours or the hours they would have worked.
17. Completed four-weekly timesheets should be signed and dated by the employee at the end of the period and submitted to the Line Manager for approval.

## Time off in Lieu

18. All requests for time off in lieu against accrued annualised hours will be considered by the Line Manager, depending upon:
  - a. How many other Employees have already approved time off during the same period.
  - b. Whether it is essential to service delivery that the employee, because of their role, is required to be at work during the period.
  - c. No more than a maximum of three weeks are requested (including leave requests) at any one time.
  - d. The request is made with at least as much notice as the amount of time requested for the period of paid leave

## Managing Annualised Hours

19. Timesheets provide a running total of hours the employee has in credit (i.e. over their equivalent contracted hours for the period) or in deficit (i.e. under their equivalent contracted hours for the period).
20. Both staff and managers have a duty to manage hours efficiently and effectively and plan working hours according to service requirements and workloads.
21. Staff should use their average weekly hours as a guide to the number of hours credit and deficit they should hold in any one period; without an agreed working pattern, e.g. term time only working, in place. For example, an employee whose annualised hours averages at 20 hours per week should avoid being in credit by more than +20 hours or deficit by more than -20.
22. Line Managers should assess an Employees' working hours over a three month period taking into account paragraph 21 above. Where a Manager finds that a staff member has significantly exceeded or alternatively underworked their hours within a period, the Manager will take the following action:
  - a) *End of first period*: hold an informal one-to-one session with the member of staff to advise them that their hours need to be effectively managed and to agree actions to do this; the actions should be agreed and signed by both the manager and employee;
  - b) *End of second period*: establish if the employee's hours are back on track; if not then a further meeting should establish a new working pattern for the next period and agreed and signed by both manager and employee; and
  - c) *End of third period*: establish if the employee's hours are back on track; if not then a further meeting should be held in which the Manager will inform the employee of their working hours so that the balance of hours worked are back on track (with regard to paragraph 21 above) within the following three months.
23. Employees who are not happy with the outcome at paragraph 22 above have the option of challenging this under the Grievance process. Management has the option of using the Disciplinary Procedure to address a failure to comply with the outcome at paragraph 22 above.

## Flexible Working (including Home/Hybrid Working)

24. The Flexible Working Regulations 2014, allows employees with six months (due to be day one of employment from July 2024) or more continuous employment to be able to request a change to:
  - their total weekly working hours;
  - their start and finish times;
  - where they work, either at home, or the Council offices, or both.
25. Employee hours are annualised to enable flexible working to meet the needs of both the Council and staff; therefore, on a weekly and monthly basis, Managers may agree to staff:
  - a) adjusting their weekly hours and their start and finish times within the annualised hours framework, and
  - b) working at home and different locations.Such arrangements are informal and are aimed to deal with predictable peaks and troughs in work throughout the year and for staff to be able to deal with matters outside work and attend appointments.
26. Further to the arrangement in paragraph 25; Braunstone Town Council fully recognises its obligations under the Flexible Working Regulations and any employee, regardless of length of service, can submit a formal flexible working request to be considered in accordance with the section below.

#### Considering Flexible Working Requests

27. All Flexible Working requests must be given due consideration. Failure to respond to an employee's request as below, can result in them making a complaint to the Employment Tribunal for loss of statutory rights. The claim can be based on either the Council's failure to address the request, or if the reasons for rejecting it were based on incorrect facts.
28. An employee wishing to request flexible working should submit their request in writing to their Line Manager.
29. Upon receipt of a written request from an employee, the Line Manager will invite the employee to an informal meeting to discuss.
30. Advice will be sought from the Council's HR Advisor. The request will be considered by the relevant Manager who is at Service Manager level or above.
31. Where the relevant Manager is able to accept the request in full; then this will be granted.
32. Where the relevant Manager is unable to accept the request in full; then employee will be invited at a Formal Hearing so that the Council can fully investigate and respond to it.
33. The Formal Hearing will be conducted by the Chief Executive & Town Clerk or the Employing Committee in the case of a request from the Chief Executive & Town Clerk. The Hearing will be supported by the Council's HR Advisor. The Employee is entitled to be accompanied by a colleague or Trade Union representative.

34. All points raised by the employee during the Hearing will be considered and a written response will be provided to the employee within five working days to inform them of the Councils' response to their request. The employee will also be informed of their right to appeal against the outcome if they wish to do so.

### Appeal Procedure

35. Appeals should be made to the Chair of the Appeals Committee, preferably in writing and within a reasonable timescale following the action the Employee is appealing against. A reasonable timescale would normally be no longer than a week. Appeals made after one week will be considered if the Employee has a reasonable explanation for having taken so long.
36. A written submission will be prepared by the member of staff, making it clear to the Chair of the Appeals Committee that they are appealing against the decision affecting them, and setting out the reasons for their appeal. Other relevant documentation relating to the hearing will be supplied by the Council representative. All documentation will be made available to Committee members and both parties prior to the hearing.
37. A Formal Appeal Hearing will be conducted by the Appeals Committee (substitute members can be drawn from the Full Council), involving the employee and will be held within fourteen days of receipt of the appeal request. At this meeting Employees are entitled - and encouraged - to be accompanied by a work colleague from the Council, or a trade union representative.
38. The procedure for considering the appeal will be as follows:
- a. The employee (or their representative) should put their case.
  - b. The Council's Representative should then be able to put any questions they have to the employee (or their representative).
  - c. The Committee can then ask questions of the employee (or their representative).
  - d. The Council's Representative should put their case.
  - e. The employee (or their representative) should then be able to put any questions they may have to the Council's Representative.
  - f. The Committee can then ask questions of the Council's Representative.
  - g. The employee (or their representative) sums up their case.
  - h. The Council's Representative then sums up the Council's case.
  - i. The parties withdraw and the Committee reaches its decision (if a point of clarification is necessary, both parties will be invited back).
  - j. Once the Committee has reached its decision it will invite both parties back to inform them of the decision, this will be confirmed in writing within 7 working days.
39. The Appeals Committee's decision is final.

### Determining a Flexible Working Request

40. The Council is not obliged to accept a flexible working request; nevertheless, it will demonstrate that it has treated the request seriously, and fully investigated whether or not it could be implemented.

41. Refusal of a flexible working request can only occur following a Formal Hearing (paragraphs 32 – 34) and will be based on one or more of the following:
  - a) the additional costs to the Council;
  - b) reduced ability to meet the needs of customers;
  - c) inability to share the person's workload amongst other staff;
  - d) potentially damaging effects upon the quality of work produced;
  - e) potentially damaging effects upon performance;
  - f) inability to recruit extra staff to provide cover.
42. Where the Council wishes to reject an employee's flexible working request for any of the above reasons, it will provide evidence to support its case.

### Homeworking

43. Home based working, or a combination of home and office (hybrid) working may be the latest thing for many employees, but Councils have been doing it for a long time. It is estimated that 80% of Parish Council staff conduct some, if not all, of their working activities from their home address.
44. Following lockdown in 2020 and 2021 the benefits of this working arrangement have been widely accepted and it has proven to be very popular as a means of balancing work and domestic obligations.
45. An employee who wishes to work from home or have a combination of home and office (hybrid) working; should formally submit a "Flexible Working Request", which will be considered and determined in accordance with this policy & procedure.
46. According to the Health and Safety Executive, there are four key areas for a Council to address to ensure that their Employees are working safely from home:
  - a) Risk Assessments;
  - b) Stress;
  - c) Video Display Units; and
  - d) Lone Working Arrangements.
 The Council's Health & Safety Policy Statement sets out further details of the arrangements for assessing the above.

### Review of the Policy

47. This Policy will be reviewed by the Policy & Resources Committee every four years following consultation with staff.

DATE ADOPTED	11 <sup>th</sup> March 2024	REVIEW DATE	March 2028
REVISED DATE/S			

## **APPENDIX 1 - Home Working Checklist**

1.	Does the Employment Contract clearly state all locations where the Employee is required to work? Home, Office, Community Centre. Plus a requirement to visit other locations such as District and County Council offices?	YES	NO
2.	Does the Employment Contract include details of the Employees' entitlement to request flexible working, including requesting home working?	YES	NO
3.	Does the Employment Contract set out details of Home Working expenses the Employee can claim (where applicable), and how to submit their claim?	YES	NO
4.	Is the Employee able to claim a PAYE deduction for Home Working expenses - see Appendix 1	YES	NO
5.	Does the Council require Employees to complete weekly/ monthly timesheets to ensure that working hours are compliant with the Working Time Regulations, and the Council can account for the hours that they pay for?	YES	NO
6.	Does the Employee's Home/Buildings contents insurance cover home working, to protect all Council assets that are kept at the Employee's home?	YES	NO
7.	Has the Employee signed a stand-alone agreement with the Council to enable deductions to be made from pay/final salary for non-return, or damage to, any Council property or assets – see Appendix 2	YES	NO
8.	Has the Council conducted risk assessment and checks to satisfy itself that all sensitive personal data is stored and managed securely in the Employees home, such as locked filing cabinets and password protected software?	YES	NO
9.	Has the Council set up a cloud storage data base for the Employee to store all emails, electronic documents and other information that is also stored on computers? Who has access to that data – passwords?	YES	NO
10.	What arrangements does the Council have in place to allow the public to have access to the Employee if necessary. For example a separate telephone line, or mobile number, set visiting times at Council offices, village hall, community centre?		
11.	Is the Employee's home address confidential? Is all post and other correspondence sent to the Council Office/Community Centre? Alternatively does the Council have a PO Box address for the Employee?	YES	NO
12.	Does the Council have a public notice on its website and other locations that state what type of behaviour towards Employees is unacceptable, and what action will be taken by the Council in the event of such conduct?	YES	NO
13.	Has the Council spelt out what travelling costs / expenses can be claimed by the Employee for journeys between their home and other work locations, if the home is the principal place of work?	YES	NO
14.	Does the Employee's car insurance include business use if it is used for travelling on Council business?	YES	NO

The above is not an exhaustive list and professional advice should be sought where necessary before implementing any changes to current working arrangements.

## **APPENDIX 2**

### **HMRC Home Working Tax Allowance**

It may be difficult for home working Employees to calculate the exact amount of the allowance additional costs that they have incurred as a result of working at home. For ease of administration, from 6 April 2012 you may accept that employees who satisfy the conditions for relief (see EIM32760) are entitled to a deduction of £6 per week, or £28 per month for monthly paid employees, (exclusive of the cost of business telephone calls) for each week that they are required to work at home, without having to justify that figure. Employees who wish to deduct more than £6 per week/£28 per month will be expected to keep records and to be able to show how their figure has been calculated.

The statutory conditions imposed by Section 326 ITEPA 2003. HMRC accept that those conditions are met where the following circumstances apply:

- the duties that the employee perform at home are substantive duties of the employment. “Substantive duties” are duties that an employee has to carry out and that represent all or part of the central duties of the employment (see EIM32780)
- Those duties cannot be performed without the use of appropriate facilities.
- no such appropriate facilities are available to the employee on the employer’s premises (or the nature of the job requires the employee to live so far from the employer’s premises that it is unreasonable to expect him or her to travel to those premises on a daily basis).
- at no time either before or after the employment contract is draw up is the employee able to choose between working at the employers’ premises or elsewhere.

The examples in EIM32790 illustrate how those conditions will apply in a range of different circumstances.

If one or more of those conditions are not met it is likely that the employee will not satisfy the statutory tests.