

APPENDIX 16 – FLEXIBLE WORKING – The Right to Request

From 6 April 2003 parents of children aged under six or of disabled children aged under 18 have the right to apply to work flexibly providing they have the qualifying length of service. NICVA will consider their applications seriously. Under the Work and Families (NI) Order 2006, from 6 April 2007 the right to request flexible working extends by allowing applications to be made by an employee who is or expects to be caring for an adult in need of care.

The right enables mothers, fathers and carers to request to work flexibly. It does not provide an *automatic* right to work flexibly as there will always be circumstances when NICVA is unable to accommodate the employee's desired work pattern. However NICVA will discuss and consider all applications seriously and endeavour to find a solution that suits both parties.

ELIGIBILITY

Parents – in order to make a request an employee will:

- have worked for NICVA continuously for at least 26 weeks at the date the application is made;
- have a child under six, or under 18 in the case of a disabled child;
- be either the child's mother, father, adopter, guardian or foster parent or married to or the partner of the child's mother, father, adopter, guardian or foster parent;
- make the application no later than two weeks before the child's sixth birthday or 18th birthday in the case of a disabled child;
- have or expect to have responsibility for the child's upbringing;
- be making the application to enable them to care for the child.

Carers – in order to make a request an employee will:

- have (or expect to have) responsibility for the care of an adult aged 18 or over;
- be making the application to enable them to care for that person;
- be either the cared-for person's spouse, partner, civil partner or relative, or be living at the same address as the person receiving care except where the person lives in the house because they are an employee, tenant, lodger or boarder.

FREQUENCY OF APPLICATION

Not more than one application can be made within a 12 month period. This is regardless of whether a previous application was made in respect of a different caring responsibility, ie an employee wishing to make a request to care for an adult would still have to wait a year even if their previous request had been to enable them to care for a child. Each year runs from the date when the application was made.

APPLICATION

It is the responsibility of employees to think carefully about their desired working pattern when making an application. Accepted applications will mean a **permanent** change to the employee's own terms and conditions of employment unless otherwise agreed. NICVA will adhere to the following procedure to ensure requests are considered seriously.

Stage 1

Applications must be made in writing to the employee's line manager stating in writing that the application is being made under the statutory right to request flexible working and confirming their eligibility to make the request either as a parent or as a carer. The employee must also specify the flexible working pattern applied for and state in writing what effect, if any, the proposed change would have on the function of their role, the impact on their colleagues and NICVA members and in their opinion how any such effect might be dealt with. The employee should also state the date on which the proposed change should take effect and the dates of any previous applications.

Stage 2

Within **28 days** of receiving the request, the Human Resources Officer and the line manager will arrange to meet with the employee to explore the proposed work pattern in depth and to discuss how best it might be accommodated.

Should there be problems in accommodating the work pattern outlined in the employee's application, the possibility of alternative working patterns will also be discussed.

The employee may be accompanied by a colleague/Union representative at any meeting called to discuss the application.

Stage 3

Within **14 days** of the meeting the Human Resources Officer will communicate the response to the employee in writing stating the new work pattern and a start date or providing clear business grounds as to why the application cannot be accepted and the circumstances. Any offers of alternative working patterns will be put forward.

Examples of Grounds for Refusal

- Burden of additional costs.
- Detrimental effect on ability to meet member's needs.
- Inability to re-organise work amongst existing staff.
- Inability to recruit additional staff.

- Detrimental impact on quality.
- Detrimental impact on performance/performance of others.
- Insufficient work during periods employee proposes to work.
- Planned structural change.

Stage 4

Appeal

If the employee believes that their request has not been properly considered they may raise the matter in writing with the Chief Executive (the Resources Committee where the Chief Executive is the line manager) setting out the grounds for making the appeal, within 14 working days of receipt of the response. An appeal meeting will then be arranged to take place within **14 working days** of receipt of the notice of the appeal. Following the meeting the Chief Executive will communicate his/her response in writing within 14 working days stating whether the appeal was upheld or dismissed, also the new work pattern and a start date, or an explanation as to why the grounds for refusal apply in the circumstances. Any alternative working patterns will also be offered.

This will constitute NICVA's final decision and is effectively the end of the formal procedure.

Withdrawal from Requests

The employee may decide to withdraw the application by written notification. An employee who withdraws their application will not be eligible to make another application for **12 months** from the date their application was made.

In cases where an employee misses two meetings without notice or reasonable cause, NICVA will treat the application as withdrawn. When rearranging the meeting the employee will be warned in writing that they risk their application being treated as withdrawn if they miss another meeting.

There may be occasions where NICVA is willing to accept a request for flexible working, but requires the employee to provide them with certain information before they can do so. If an employee unreasonably refuses to provide the information, then NICVA will treat the application as withdrawn and will inform the employee in writing.

Third Party Conciliation/Mediation

Despite the best efforts of both parties there will be cases where it may not be possible to resolve a disputed request. In such circumstances, both parties can agree to try to resolve the issue through the use of an external third party mediator or conciliator such as the Labour Relations Agency, a union representative, or another person with appropriate expertise.