

# **DERBYSHIRE FIRE & RESCUE SERVICE**



**Derbyshire**  
Fire & Rescue Service  
Making Derbyshire Safer

## **EMPLOYMENT POLICY**

### **FLEXIBLE EMPLOYMENT POLICY AND APPLICATION PROCEDURE**

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#### **CONTENTS**

<b>SECTION 1</b>	<b>INTRODUCTION</b>
<b>SECTION 2</b>	<b>AIMS OF THE POLICY</b>
<b>SECTION 3</b>	<b>PAYMENT OF OVERTIME</b>
<b>SECTION 4</b>	<b>TYPES OF FLEXIBLE WORKING</b>
<b>SECTION 5</b>	<b>OTHER PROVISIONS</b>
<b>SECTION 6</b>	<b>IMPLEMENTATION OF THIS POLICY FOR OPERATIONAL EMPLOYEES</b>
<b>SECTION 7</b>	<b>CRITERIA FOR CONSIDERING FLEXIBILITY FOR FIRE COVER EMPLOYEES</b>
<b>SECTION 8</b>	<b>PENSION IMPLICATIONS</b>
<b>SECTION 9</b>	<b>LEGISLATION</b>
<b>SECTION 10</b>	<b>RESPONSIBILITIES OF MANAGERS</b>
<b>SECTION 11</b>	<b>RESPONSIBILITIES OF EMPLOYEES</b>
<b>SECTION 12</b>	<b>ELIGIBILITY CRITERIA</b>
<b>SECTION 13</b>	<b>APPLICATION PROCEDURE</b>
<b>SECTION 14</b>	<b>JUSTIFIABLE REASONS FOR REFUSAL</b>

EP: Flexible Employment Policy and Application Procedure v1.4 May 2019

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<b>SECTION 15</b>	<b>MAKING AN APPEAL FOLLOWING THE REFUSAL OF AN APPLICATION</b>
<b>SECTION 16</b>	<b>APPEALS PROCEDURE</b>
<b>SECTION 17</b>	<b>ENTITLEMENT OF EMPLOYEES TO BE ACCOMPANIED</b>
<b>SECTION 18</b>	<b>EXTENSION TO TIME LIMITS (APPLICATIONS OR APPEALS)</b>
<b>SECTION 19</b>	<b>WITHDRAWAL OF APPLICATION</b>
<b>SECTION 20</b>	<b>SUMMARY OF PROCEDURE</b>
<b>SECTION 21</b>	<b>RELEVANT FORMS</b>
<b>SECTION 22</b>	<b>RELEVANT DOCUMENTS</b>
<b>SECTION 23</b>	<b>RELEVANT LEGISLATION</b>

## **1. INTRODUCTION**

- 1.1 This policy and procedure has been created as part of the Service's aim to support employees in balancing their work and personal commitments.

## **2. AIMS OF THE POLICY**

- 2.1 The main aim of this policy and procedure is to increase the flexibility of the workforce in order to support the work-life balance of employees and to comply with statutory duty. Any future changes to statute affecting flexible working will be considered in future revisions of this policy and procedure. There are a number of benefits, both for individual employees and Derbyshire Fire and Rescue Service (DFRS) to provide an effective service, including:

- An increased and more diverse pool of skilled candidates who are able to apply for posts due to flexibility of work patterns
- Increased retention and motivation of existing employees
- Greater goodwill from a workforce that feels valued
- Reduction in levels of stress, sickness absence and special leave
- A workforce that can be deployed more flexibly to match fluctuating demands on the Service

- 2.2 The investigation of such initiatives would use appropriate methods to provide risk-based evidence of the viability and expected benefits of greater flexibility. Proposals regarding flexible working patterns would be put through a consultation process with employees/trade unions before any firm decisions were to be made for DFRS to change existing working patterns.

## **3. PAYMENT OF OVERTIME**

- 3.1 Payments for working hours in excess of those contractually agreed, whilst working to some of the flexible working schemes as described within the procedure supporting this policy, will only attract overtime rates when all working hours exceed the standard full-time hours for the appropriate post/work group.

- As an example, if a Job Share Support employee contracted to work 25 hours per week, works extra hours, they will not attract payment at overtime rates until they have worked in excess of the standard 37 hours during the week.

## **4. TYPES OF FLEXIBLE WORKING**

- 4.1 Some examples and brief descriptions of flexible working arrangements are listed below.
- 4.2 Options should be agreed on an individual or team basis as appropriate. Each request for flexible working will involve a different set of circumstances and careful

consideration will help to ensure that the most appropriate option may be selected and in line with the respective procedures.

#### 4.3 Job Share

Job sharing is an arrangement whereby two people share the duties and responsibilities of one full time post between them. Each job share partner has their own contract of employment, and the salary and benefits are divided according to the hours that they work.

Successful job share arrangements depend upon a high level of commitment, co-operation and communication between job share partners. For detailed information on Job Share, please refer to the 'Job Share Contracts Employment Procedure' available on FireView.

#### 4.4 Part Time Working

Part time employees are employed on less than full time hours in working patterns that suit their own personal circumstances and the needs of the Service. They are employed on the same terms and conditions, pro rata, as full time employees.

When recruiting to a post, managers must consider the number of hours required and when they could most effectively be worked, e.g. to accommodate peaks in the workload.

#### 4.5 Annualised hours

Working to an annualised hours arrangement simply means that rather than hours being contracted per week, they are contracted for the whole of the year on a permanent basis.

Depending on the needs of the Service and in agreement with local management, annualised hours can be wholly flexible or a portion of working hours can be set, with the remaining element being open to flexibility. For detailed information on Annualised Hours, please refer to the 'Annualised Hours Employment Procedure' available on FireView.

#### 4.6 Term-Time Only Contracts

Term-time only contracts allow employees to work during the school term but with little or no attendance during the school holidays. Opportunities for this pattern of working may exist where there are few deadlines for completion of work.

Managers should consider carefully whether the tasks they have could be sufficiently covered on a term-time only basis. For detailed information on Term-Time Only Contracts, please refer to the 'Term-Time Only Contracts Employment Procedure' available on FireView.

#### 4.7 Career Breaks

The Career Break Scheme makes provisions for employees with more than 2 years' service to apply for a period of unpaid time off work in order to concentrate on other personal priorities.

Employees taking a Career Break will have the right to return to employment with DFRS on the same terms and conditions as before, subject to any organisational changes that may occur during the Career Break period.

Applications for Career Breaks should normally be made at least 6 months in advance. For detailed information on Career Breaks, please refer to the 'Career Breaks Employment Procedure' available on FireView.

#### 4.8 Compressed Hours Contracts

Compressed hours allow employees to work their total number of agreed hours over a shorter period of time. For example a nine-day fortnight would involve a standard week for the first week but in the second week the hours would be increased for the first four days in order to allow employees to have the 5<sup>th</sup> day off. For detailed information on Compressed Hours, please refer to the 'Compressed Hours Contracts Employment Procedure' available on FireView.

- 4.9 All the above options must be applied for using the process as detailed in the procedure below and by completing the 'Flexible Working Application Form' which can be found in the Flexible Employment Toolkit available on FireView or from HR Services.

### 5. **OTHER PROVISIONS**

- 5.1 Employees can apply for the following options listed 5.2 to 5.5, but excluding 5.6 below, without the need to use the formal application process referred to above. Where appropriate, employees should make verbal requests to their manager. Managers and employees should be aware however that if a request is declined, the formal appeals process as detailed in section 16 may be used.

#### 5.2 Flexi-time for Support Staff

Flexi-time provides support employees with a degree of flexibility in relation to their starting and finishing times to suit their travel arrangements and other personal circumstances. Accumulated credit can be used to take time off at a later date. Flexi-time is applied in areas where it can operate without any detrimental effect to service delivery. For detailed information on flexi-time, please refer to the 'Flexi-time for Support Staff Employment Procedure' available on FireView.

#### 5.3 Temporary Change to Work Flexibly

It is appreciated that employees can sometimes need to change their working arrangements on a temporary basis, to suit their personal circumstances. Temporary changes to work flexibly, provides employees with a degree of flexibility for a fixed period of time. Temporary arrangements of this nature will require manager approval and must be notified to HR Services.

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#### 5.4 Special Leave

It is appreciated that employees with care or family commitments can sometimes need time off which may arise with little warning or opportunity to plan. The provision of special leave is available to cover the following circumstances:

- Dependent Care
- Domestic Emergency
- Bereavement
- Other types of Special Leave

For detailed information on Special Leave, please refer to the 'Special Leave Employment Policy' available on FireView.

#### 5.5 Leave for parents

For detailed information on leave for parents (including Maternity Leave, Adoption Leave, Paternity and Maternity Support Leave, Parental Leave and Shared Parental Leave) please refer to the relevant policy available on FireView.

#### 5.6 Flexible retirement for Local Government Pension Scheme (LGPS) members

The Service supports requests to flexibly retire for employees who are members of the Local Government Pension Scheme (LGPS).

The principle of flexible retirement is that it allows eligible employees from the age of 55 years or over to apply to receive pension benefits and to continue working for the Service on a permanently reduced hours basis without the need to have a break in service.

Approval or otherwise of flexible retirement applications is decided by DFRS and consideration given to the Service needs being met is paramount, including no cost associated with flexible retirement to be incurred by the Service.

For further guidance and to apply, see separate 'LGPS Flexible Retirement Policy & Procedure' available on FireView.

### **6. IMPLEMENTATION OF THIS POLICY FOR OPERATIONAL EMPLOYEES**

6.1 As a supportive employer, the aim of DFRS is to help all employees improve their work-life balance. It may be more difficult for operational employees to benefit from flexible working without careful planning to prevent adverse effect on safe fire cover.

6.2 In support of these aims, considering how operational employees might be employed flexibly should be viewed as an integral part of this policy. Relevant line managers must work towards identifying ways in which flexibility can be introduced for the operational workforce and support DFRS achieving implementation within a practical timescale.

- 6.3 All Fire Pension Schemes allow access to part-time employees as long as all other eligibility criteria is met.
- 6.4 Due regard should also be given to Section 4 (Part A) of the NJC for operational employees (the Grey Book) regarding the principal collectively-bargained “parameters” on duty systems. Proposed local duty systems that do not fall within these parameters are subject to negotiation with representative bodies.

## **7. CRITERIA FOR CONSIDERING FLEXIBILITY FOR FIRE COVER EMPLOYEES**

- 7.1 When considering the deployment of operational employees flexibly, either following a request from an individual or as part of an IRMP based strategy, managers must use an operational risk-based criteria to assess its effectiveness.

## **8. PENSION IMPLICATIONS**

- 8.1 With the exception of applying for LGPS flexible retirement (see ‘LGPS Flexible Retirement Policy & Procedure’ available on FireView); in general working flexibly has no effect on a member’s pension entitlement as long as they continue to work their full-time contracted hours. There are only implications on a member’s pension when working flexibly also entails being contracted to undertake less than the standard contracted hours for the relevant staff group.
- 8.2 All employees, irrespective of staff group must seek expert advice on the full implications on their individual pension entitlement prior to making a final decision on working less than the standard contracted hours for the relevant staff group. For support and control employees, this can be sought from Pensions Section, Derbyshire County Council on 01629 538900 or email [pensions@derbyshire.gov.uk](mailto:pensions@derbyshire.gov.uk) and for operational employees, this can be sought from Pensions Section, Leicestershire County Council on 0116 305 8183 or email [firepensions@leics.gov.uk](mailto:firepensions@leics.gov.uk).

## **9. LEGISLATION**

- 9.1 The Flexible Working Regulations 2014 gives employees with at least 26 weeks’ continuous service at the date of application, the statutory right to request a flexible working arrangement.
- 9.2 The legislation also prescribes a set of criteria on which employers are to consider the request and these criteria also forms the only reasons an employer can legally justify rejection of such a request.
- 9.3 This policy and procedure has been designed to comply with this legislation in terms of process, timescales, format of application/appeal forms and standard letters.

9.4 Managers must bear in mind that the spirit of this policy is to support all employees in their work-life balance. All applications must be considered equally, irrespective of whether the request is as a result of child-care commitments.

9.5 The Working Time Regulations 1998 set statutory rules regarding working time, rest breaks, annual leave etc.

The following table provides a summarised and highly simplified guide:

<b>Topic</b>	<b>Opt-out or Derogation</b>	<b>Reference Period</b>	<b>Comments</b>
48 hour maximum working week	Individual can opt-out of this by written agreement	Average calculated over a 17 week period	By collective agreement, reference period can be extended to 52 weeks
11 hour daily rest period between shifts		Compensatory rest can be given based on an average calculated over a 17 week period	
One 24 hour uninterrupted rest break per week	This can be 2 days over a 2 week period	As above	This is in addition to the 11 hour rule i.e. a total of 90 hours breaks per week
Night Work – maximum 8 hours per day		As above	Employees have right to health assessments
20 minute break if shift > 6 hours	“adequate” rest may be substituted for formal break if nature of role demands e.g. operational role		Must be during rather than at beginning or end of shift. This is unpaid

## 10. RESPONSIBILITIES OF MANAGERS

- Where appropriate, to undertake the considerations referred to in Section 6 in support of achieving a more flexible operational workforce.
- To fully evaluate all requests for flexible working and make a decision based on a risk assessment of the continued provision of a safe and effective service, balanced with accommodating such requests wherever practicable.
- To undertake this consideration, managers must assess the current deployment and working patterns of the workforce and base their decision on whether any further flexibility can be accommodated. All requests are dealt with on a first come, first served basis.
- To use the criteria detailed in paragraph 7.1 when considering the appropriateness of the flexible deployment of fire-cover employees.

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- To follow the procedure and required timescales in order to comply with legislation and good practice.
- To give due regard to the Working Time Regulations summary table in this policy and procedure when considering requests for flexible working.
- To implement a framework to ensure that employees continue to receive appropriate training, and maintain their operational / professional competences irrespective of working patterns.
- To monitor revised working patterns once implemented to ensure Service provision remains effective and that working patterns comply with Working Time Regulations.
- To seek timely support and advice from HR Services when concerned about statutory rules, when contemplating the rejection of a request or where circumstances make it seem reasonable.

## **11. RESPONSIBILITIES OF EMPLOYEES**

- To ensure appropriate training continues to be undertaken, and maintain operational / professional competences irrespective of working patterns.
- To reciprocate a flexible attitude to working patterns where reasonable in support of the provision of an effective Service.
- To appreciate that although DFRS will accommodate flexible working patterns where practicable, priority has to be given to the need to provide an effective service and be prepared to compromise accordingly.
- To consider the implications to individual pension entitlement as described in Section 8 and to changes in pay, leave etc.
- To understand that in exceptional circumstances, the nature of the role undertaken may develop in such a way that it can no longer be undertaken flexibly (part-time, job-share, compressed hours etc.). The Service may have to consider terminating the contract of employment (with appropriate consultation, notice and seeking of reasonable adjustments including redeployment opportunities) if the reverted working pattern of the role cannot be undertaken.

## **12. ELIGIBILITY CRITERIA**

- 12.1 Employees with 26 weeks continuous employment at the date of application with DFRS have a statutory right to request a permanent variation to their contract in order that they can work more flexibly.
- 12.2 All applications for flexible working will be dealt with in accordance with the procedure outlined below.
- 12.3 Employees can request a change to the terms and conditions of their employment relating to:
- The hours they work
  - The times when they are required to work
  - Their place of work, including a request to work from home

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12.4 Some examples of flexible working options that employees may wish to consider are as follows:

- Job Share
- Part time working
- Annualised Hours
- Term-time Only
- Career Breaks
- Compressed Hours

12.5 The above options must be applied for using the process below.

12.6 Employees can apply for the following options without the need to use the flexible working application process:

- Flexi-time
- Special Leave
- Temporary Change to Work Flexibly
- Making Reasonable Adjustments

12.7 Any agreement which is reached using the application process will normally result in a permanent change to the contract of employment unless otherwise agreed. There is no automatic right to revert back to the original contract.

12.8 Only one application for flexible working can be submitted within any 12-month period.

### **13. APPLICATION PROCEDURE**

13.1 Employees must apply to their Station/Line Manager using the 'Flexible Working Application Form', which can be found in the Flexible Employment Toolkit available on FireView or from HR Services. Guidance notes for employees are also available in the Flexible Employment Toolkit.

13.2 The Station/Line Manager must seek advice and guidance from HR Services and consider carefully whether the proposed working pattern can be accommodated by:

- a) Ensuring that they are familiar with all the types of flexible working in this policy and procedure in case other working patterns need to be considered.
- b) Discussing options with other employees, to cover any extra hours that may be created.
- c) Considering the cost and performance implications.
- d) Using the criteria detailed in paragraph 7.1 when considering the appropriateness of the flexible deployment of fire cover staff.
- e) Assessing whether a trial period should be considered.

- f) Planning a suitable start date and what may need to be done before agreeing to the request.
- 13.3 The Station/Line Manager must arrange to meet with the employee, using the standard letter which can be found in the Flexible Employment Toolkit available on FireView or from HR Services, giving at least 5 working days' notice. The meeting must take place no later than 28 days after the date of application.
- 13.4 At the meeting both parties will have the opportunity to discuss the desired work pattern in depth and consider how it might be accommodated. If the original working pattern cannot be accommodated, the meeting also provides an opportunity to discuss an alternative working arrangement.
- 13.5 Following the meeting, the Station/Line Manager should submit the Flexible Working Application Form with their recommendations to the relevant Area Manager for review, who should then submit this to the Workforce Planning Group (WPG) for final decision / considerations.
- 13.6 Following review by WPG, the Station/Line Manager must contact HR Services to discuss the outcome. HR Services will write to the employee informing them of the decision in writing within 14 days. The letter will either:
- a) Accept the request, setting out any action upon which the agreement is dependent and a date for commencement, A completed Notification of Change (NOC) form should be sent to HR Services for a new contract/variation of contract to be issued and any changes in pay to be processed.
  - b) Outline any compromise, as discussed and agreed at the meeting. A completed NOC form should be sent to HR Services for a new contract/variation of contract to be issued and any changes in pay to be processed.
  - c) Advise that the request has been refused, clearly stating the business reasons (see section 14 below) and details of the appeals procedure. Please note: Requests must not be refused without prior consultation with HR Services.

## **14 JUSTIFIABLE REASONS FOR REFUSAL**

- 14.1 Under Section 80 of the Employment Act 2002, the reasons for any refusal or compromise must fall into at least one of the following areas:-
- The burden of cost to DFRS.
  - Detrimental effect on the ability to meet internal/external customer demands.
  - Inability to re-organise the work amongst existing employees or recruit additional employees.
  - Detrimental impact on levels of quality or individual/departmental performance.

- Insufficient work during the periods that the employee proposes.
- Planned structural change.

Any reason for refusal must be discussed with HR Services prior to a final decision being made and communicated to the employee.

## **15 MAKING AN APPEAL FOLLOWING THE REFUSAL OF AN APPLICATION**

15.1 It will not always be possible to accept a request to work flexibly, due to the business needs of the Service. An employee may wish to appeal against a decision for one of the following reasons:

- They feel that the policy and procedure has not been properly applied.
- They feel that their application has not been properly considered.
- They wish to challenge the business reasons given by the Manager.

## **16 APPEALS PROCEDURE**

16.1 If an employee wishes to appeal against the Station/Line Manager's decision, they should complete the 'Flexible Working Appeal Form' which can be found on FireView in the Flexible Employment Toolkit or from HR Services, within 14 days and submit it to their Group Manager/Head of Department.

16.2 The Group Manager/Head of Department, or nominee, must arrange a meeting to hear the appeal within 14 days of receipt of the 'Flexible Working Appeal Form'.

16.3 Detailed information regarding the appeal hearing can be found in the Flexible Employment Toolkit available on FireView or from HR Services.

16.4 The decision of the appeal panel must be given in writing, setting out the reasons for the decision, within 14 days of the hearing.

16.5 The decision of the appeal panel is final. There is no further right of appeal.

## **17 ENTITLEMENT OF EMPLOYEES TO BE ACCOMPANIED**

17.1 Employees are entitled to be accompanied at meetings by a colleague or recognised trade union representative; however they will need to make the necessary arrangements.

## **18 EXTENSION TO TIME LIMITS (APPLICATIONS OR APPEALS)**

18.1 Requests should be dealt with in a timely manner and the process completed within three months from first receipt of request to notification of the decision on appeal.

18.2 There may be occasions when it is not possible to adhere to the timescale given above e.g. due to annual leave, sickness absence or the agreement of a trial

period. If for some reason the request cannot be dealt with within the timescales the regulations allow, then time limits can be extended if both the manager and the employee agree to the extension.

- 18.3 Managers must complete the Extension of Time Limit form which can be found in the Flexible Employment Toolkit available on FireView or from HR Services, stating details of why the additional time is requested. The completed form must then be sent to the employee who should sign and return the agreement slip.
- 18.4 An employee and/or their representative who cannot attend a meeting should inform the Station/Line Manager in advance as soon as possible. The meeting should then be rearranged at a time and place which is mutually convenient

## **19 WITHDRAWAL OF APPLICATION**

- 19.1 Employees can withdraw their application at any stage during the process by informing their manager in writing. The manager must confirm receipt of the withdrawal.

## **20 SUMMARY OF PROCEDURE**

- 20.1 A summary of the application procedure is shown in the form of a flowchart which can be found in the Flexible Employment Toolkit available on FireView.

## **21 RELEVANT FORMS**

Flexible Working Application Form  
Flexible Working Appeal Form

## **22 RELEVANT DOCUMENTS**

Procedure for Job Share  
Procedure for Annualised Hours Contracts  
Procedure for Term-Time Only Contracts  
Procedure for Career Breaks  
Procedure for Compressed Hours Contracts  
Procedure for Flexi-time  
Procedure for Approved Leave  
Guidance for Making Reasonable Adjustments  
Procedure for Flexible Retirement for Local Government Pension Scheme members

## **23 RELEVANT LEGISLATION**

Employment Rights Act 1996  
Employment Act 2002 (Flexible working)  
Flexible Working Regulations 2014  
Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000  
Working Time Regulations 1998  
Equality Act 2010

DOCUMENT HISTORY	
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Replaces	Flexible Employment Policy and Application Procedure, Version 1.3 issued August 2018 which has been removed from the Intranet. All hard copies should be destroyed.
Summary of changes	<p>This Employment Policy has been reviewed and minor changes have been made as follows:</p> <ul style="list-style-type: none"> <li>• Application Procedure has been updated to reflect the requirement of Flexible Working Applications to be considered by the Workforce Planning Group (WPG) in line with the updated WPG Terms of Reference.</li> <li>• General update of language and terminology.</li> </ul>
Author	Ruth Holden, HR Partner & Paula Chand, HR Partner
Department	HR Services
Approved by	Area Manager Judi Beresford

Revision history			
Version	Date	Author	Changes
1.3	August 2018	Annette Barrett and Emma Stevenson	<ul style="list-style-type: none"> <li>• Flexible Employment Policy and Flexible Employment Application Procedure have been merged into one document.</li> <li>• General update of language and terminology.</li> </ul>
1.2	February 2015	Annette Barrett	<ul style="list-style-type: none"> <li>• To reflect changes in statute regarding the criteria for eligibility for flexible working</li> <li>• To make reference to policies in relevant sections</li> <li>• To remove comments relating to modernisation agenda, other general leave and return to work policy that are no longer relevant</li> <li>• To remove section on monitoring effectiveness of policy</li> <li>• Added section 5.3 relating to temporary change to work flexibly</li> <li>• General update of language and terminology.</li> <li>• To reflect changes in statute regarding the criteria for eligibility for flexible working.</li> <li>• To reflect changes in statute regarding dealing with requests in a reasonable manner and within 3 months.</li> <li>• Updated and clarified changes in relation to the Right of Appeal.</li> <li>• Updated and clarified changes in relation to the Right of Accompaniment.</li> <li>• General update of language and terminology.</li> </ul>

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			<ul style="list-style-type: none"> <li>Added Flexible Employment Toolkit to FireView containing all appendices which have been removed from Flexible Employment Application.</li> <li>Letters and forms updated in accordance with changes above.</li> </ul>
1.1	Jun 2013	Paula Chand	<ul style="list-style-type: none"> <li>To update changes to Portfolio names and associated job roles following the restructure in 2011</li> <li>To add the pension contact details for operational staff</li> <li>To remove reference to 'other general leave policy' that was not developed</li> </ul>
1.0	May 2011	Sean Burns	<ul style="list-style-type: none"> <li>to facilitate LGPS Flexible Employment</li> <li>to reflect changes in statute regarding the criteria for eligibility for flexible working</li> </ul>
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### **Review Period**

This Employment Policy will be reviewed May 2024.

### **Distribution**

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