



Flexible Working: Permanent or Temporary Changes to Working Patterns, Career Break or Job Share Requests

Policy & Procedures

1 Introduction

South Tyneside Council and the Governing Board are committed to providing employees with opportunities to balance home life and work, whilst ensuring that the Schools' needs are not compromised.

Head Teacher must consider requests carefully and can only refuse if there is a clear business reason. No employee will be victimised or treated less favourably at work as a result of making a request.

This policy applies to all school based employees where the Governing Board has adopted the policy.

2 Who Can Make a Request

Any employee can make a request under the policy providing they meet the following criteria:-

- **Flexible Working request** – employee must have at least 26 weeks continuous service with this Council/School at the date of application and, providing they have not made a previous application under the Policy in the last 12 months, has a statutory right to make a request to permanently change their working pattern.

The right has been extended for employees (excluding JNC Chief Officers) to make a request to reduce their working hours on a temporary basis, returning to their substantive hours at the end of the agreed period or after a maximum of 12 months.

- **Career Break request** – employee must have completed 2 years continuous service with South Tyneside Council and demonstrate a commitment to continuing their career
- **Job Share request** – any employee in a post working full-time hours may apply to job share, however there is no automatic right to job share

3 The Request

Requests for flexible working can be made for the following reasons:-

3.1 Permanent or Temporary Changes to Working Patterns

Employees can request to change:

- the number of hours they work
- the times they are required to work

Requests can be made on a permanent or temporary basis. Requests made on a temporary basis are for a specified period of time up to a maximum of 12 months. After this time, the employee would return to their substantive hours/days.

Examples could include part-time working, job share, compressed hours and school term-time working. There can be a variety of reasons for requesting a permanent change to the normal working pattern, not just for childcare arrangements, for example, to have the opportunity to undertake a college course, sporting activity or other family commitments. An employee should state the reason why they wish to work flexibly, as this may be helpful in order that other options may also be considered.

3.2 Career breaks

This policy can be used to request a career break, see Appendix A for further information. The purpose of a career break is to allow employees an opportunity to take an unpaid break from their employment (normally maximum of 12 months). With the exception of continuity of service, all other terms of the contract of employment with the Council/School are suspended. On return, at an agreed date following the career break, the employee will be able to return to the same or similar post within the School unless this is not reasonably practicable, or the post is no longer available.

3.3 Job Share

This policy can be used by an employee to request to job share their substantive post, see Appendix B for further information. The purpose of requesting to job share is designed to increase the variety of work available to those not seeking full-time employment and it is intended to:

- increase employment opportunities for people committed to caring for children, partners or other relatives
- make it easier for employees returning from maternity leave to cope with both their career and family, thus retaining the benefits of their skills and experience
- improve possibilities of career development for people who do not work full-time
- give employees the opportunity to work fewer hours

It also serves as a valuable means of retaining trained and experienced employees who, due to a change in their own personal circumstances, might have to leave if the opportunity to job share was not available.

It is important that an employee submitting a request does this well in advance of any proposed change as the process may take up to three months to complete following receipt of the request, including any appeal if the request is not agreed.

4 Procedure

- **Step 1**

The employee must make a clear and detailed written application well in advance of when the change is to take effect. This must be done on the Flexible Working Application Form. Employees do not need to state the reason for the request, but this can be helpful if alternative solutions are to be considered.

- **Step 2**

The Head Teacher should arrange to meet the employee within 28 days of receiving a request. The purpose of the meeting is to discuss the request in detail, how it could be accommodated, implications for the School and employee, and possible alternative working arrangements. The meeting should be open and constructive, with reservations and problems fully explored. The employee can be accompanied by a trade union representative or a work colleague for support.

Prior to the meeting the Head Teacher should review the request in relation to the following:

- What tasks are currently completed and could another team member do some of them?
- Are there any tasks that could cease or be done differently?
- When are the peaks and troughs in the workload?

- Will essential work still be completed to the required quality and timescales?
- How vital is it for the employee to be in for the whole week, every week?
- Will there be significant difficulties if a member of the team was absent at a particular time or day and how could these be overcome?
- What work patterns do other team members work and what would happen during periods of absence?
- Could any salary savings resulting from the changes be used to provide additional support during busy times, or on a temporary basis?
- The number of hours that can be taken without affecting the level of service;
- The responsibilities of the post, and whether these could continue to be fulfilled if the request is approved;
- The knowledge and skills required to complete the duties;
- The preferred start and end date for any temporary voluntary reduction in working hours.

If it is possible to confirm agreement to the request at the meeting, this should be done. It may be sensible to consider a trial period, before confirming the arrangement. If this is agreed by both sides the employee should be given details of this in writing.

If further considerations are required, this should be indicated, along with a timescale for providing a response. In any event, a response should be given to the employee in writing, within 14 days of the meeting. This timescale can be extended by mutual agreement – see below (7 – Additional Information). The Head Teacher in consultation with HR Services will make the final decision.

- **Step 3**

Written confirmation of the decision should be given to the employee within 14 days of the meeting. This is on the back of the application form and must include whether the request has been agreed or confirmation of any alternative arrangements that have been agreed with the employee. If the arrangement has been rejected then this must be confirmed and the reasons why. In the case of a permanent change application the Head Teacher must ensure that the reason for the rejection is in line with Section 5 below. The right of appeal must be clearly stated on any correspondence.

A trial period of the change to the working pattern is recommended for both temporary and permanent change applications. This will give both the line manager and the employee an opportunity to assess the change before making a commitment. Ideally, this should have been discussed and agreed at the meeting. Where this hasn't been discussed, the employee's acceptance of the trial period should be given and details of the start and end dates of the trial

period should be sent to the individual (form to be completed by the Head Teacher on page 4 of the application form).

Where permanent changes such as a reduction in hours affect the employee's main terms and conditions of employment, a variation to contract letter will be issued for signature, within 4 weeks of the change.

For a temporary reduction in hours the employee will receive a temporary variation to contract and their salary will reduce accordingly. The employee will retain their terms and conditions on a pro rata basis, including annual leave, bank holidays and occupational sick pay. Employees are advised to contact the Pensions Team for advice on how their request may impact upon their pension contributions.

5 Reasons for Refusal

A request for a permanent change can only be refused for one or more of the following reasons:

- Burden of additional costs
- Detrimental effect on the ability to meet customer demand
- Inability to reorganise the work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes

6 Appeal

If the employee's request is not agreed, they have the right of appeal against the decision. This appeal must be made in writing, within 14 days of their receipt of the letter confirming the rejected request. It should be submitted to the Clerk to the Governing Board.

The appeal will be conducted in line with Step 2 and Step 3 (above) with the exception of the timescale for the meeting to be held is within 14 days of receiving the appeal, and that there is no further right to appeal.

On receipt of the appeal, the Clerk to the Governing Board will consult with HR Services at the earliest opportunity. The employee can be accompanied by a trade union representative or a work colleague (not a family member) at the appeal meeting.

The decision of the Governing Board is final and will be in writing. No recourse to the Grievance Procedure can be made, given that an existing appeals mechanism exists.

7 Additional Information

The employee can be accompanied by a trade union representative or work colleague (not a family member) at any of the meetings as detailed above.

Requests must be dealt with in a timely manner as the law requires the process, including the appeal, to be completed within 3 months of receiving the request. The timescales detailed in this procedure are in line with the legal requirements. These timescales may need to be varied, for example to allow either party an opportunity to investigate the matter. Both parties must agree extensions to the deadlines. This agreement must be recorded and provided to the other party: any rejection of this should be confirmed in writing.

A copy of the application form and any correspondence given to the employee must be retained by the School and copied to HR Services.

Employees who are concerned that their application is not being dealt with fairly or under the agreed timescales should discuss this as soon as possible with their Line Manager or HR Service.

If changes are temporary, at the end of the agreed period, the employee has a right to return to their substantive working hours. Under special circumstances the Head Teacher may consider extending the temporary arrangement for a longer period, if requested by the employee.

If a temporary reduction in hours has been agreed and the employee is not at work i.e. off sick, taking a career break etc they must have returned to work in order to change back to their substantive hours. They must also have returned back to their substantive hours and been back at work for 12 months before submitting another application.

8 Multiple Requests

There may be some occasions, when a line manager receives more than one request to work flexibly from different employees. Where this happens it may be possible to grant all of the requests received. However, before doing so the Head Teacher will need to look closely at the impact this would have on the School before coming to a decision.

Requests should be considered in the order they are received. Having considered and approved/refused the first request the Head Teacher should remember that the business context has now changed and can be taken into account when considering the second request against the business reasons set out in section 5.

When a Head Teacher receives more than one request, they are not required by the law to make value judgements about the most deserving request. They should consider each case on its merits looking at the business case and the possible impact of refusing a request. The Head Teacher should have a discussion with the employees to see if there is any room for adjustment or compromise before coming to a decision.

9 Reasons for Treating an Application as Withdrawn

If an employee wishes to withdraw their application they should notify their Head Teacher in writing. An application will be treated as withdrawn where the employee has:

- notified the Head Teacher that he/she is withdrawing it, in writing
- without reasonable cause, failed to attend a meeting to discuss the application more than once, *or*
- without reasonable cause, refused to provide the Head Teacher with information they require in order to assess whether the application should be agreed to.

An employee should be aware that they are not able to submit a further request for flexible working for a period of 12 months from the date of withdrawal, or notification of this.

10 Equality and Diversity Statement

South Tyneside Council and the Governing Board are committed to promoting equality and valuing diversity. An equality check for HR Services was carried out in 2018. No equality implications were identified in this policy.

Appendix A – Career Breaks

1 Introduction

A Career Break is an extended period of unpaid leave, normally for a maximum of 12 months, which can be used for approved purposes and subject to specified conditions. Career breaks are not secondments. On return, at an agreed date following the career break, the employee will be able to return to the same or similar post within the School unless this is not reasonably practicable, or the post is no longer available.

Applications will be considered for the purpose of:

- Caring for an ill or dependent relative
- Caring for children
- Extended periods of travel or voluntary service overseas
- Undertaking an educational course

The above list is not exhaustive and any other reason not listed will be considered on its own merit.

2 Returning to Work

Employees will be required to give written notification of returning to work with the School 3 months in advance of the previously agreed return date. This also applies if an employee wishes to return to work earlier than originally planned.

The School will try to place employees returning from a career break in the same post held before the career break started. If this is not reasonably practicable, or the post is no longer available for example following a restructure, employees will be advised that they are at risk of redundancy and the redeployment policy will be applied.

Where applicable, employees will have to undergo a Disclosure and Barring Service (DBS) re-check if this has lapsed during the career break. This must be done before the employee returns to work or if reassigned to a position requiring a DBS check, again this must be applied for prior to returning to work.

3 Training Needs on Return to Work

Employees may be expected to undertake a period of training on their return to work, the content and duration of which will depend on the length of the break and any changes in legislation/policy, which have occurred during that time.

The Head Teacher should ensure that the employee is brought up to date with any changes. It is expected that an employee attends any appropriate mandatory training specific to his/her role.

Head Teachers will be responsible for assessing training needs on the employee's return to work. Where necessary, advice can be provided from HR Services.

4 Arrangements for Keeping in Contact

4.1 School's Commitment

- The Head Teacher will ensure contact is maintained with the employee for the duration of the break. This will include forwarding relevant newsletters, publications and information about the School, where appropriate/possible. The arrangements for contact i.e. frequency and method should be agreed between the Head Teacher and employee prior to the commencement of the career break.
- The Head Teacher will advise the employee of any changes in service conditions, and, where possible, will ensure the employee is included in any consultation arrangements for restructures etc.
- Once the employee has confirmed their return date in writing, HR Services will write to them requesting updated information, bank details etc. They will also send the employee information relating to their pension contributions.

4.2 Employee's Commitment

- Not to undertake any other substantive paid employment during the career break.
- To maintain contact with their Head Teacher including any relevant changes in their circumstances, e.g. change of address.
- Where possible, to engage in any restructure/redundancy process relevant to their role.
- To return to work for the School on the agreed date and to provide written notification of this date three months in advance of the return.

5 Other Employment

Individuals will **not** be permitted to take a career break to take up alternative employment. However, individuals who may need to obtain employment to support themselves financially, for example whilst attending university, may do so but on a casual basis only. In this event, details must be reported and prior approval obtained from the Head Teacher. Casual work with the Council/School is also permissible for an employee taking a career break, which will be remunerated on the salary and conditions appropriate to the duties being performed and not their substantive post.

6 General Conditions

- **Continuous Service** - continuity of employment is not affected by a career break however the period that an individual is away on a career break will not count towards continuous service for annual leave, redundancy, sickness and long service award.
- **Annual Leave** - All accrued annual leave must be taken before the career break commences. No payment in lieu of outstanding leave will be made and employees are not permitted to “carry over” leave. There is no entitlement to annual leave during the career break. On return to work, entitlement to annual leave would be the same as when the break started and the period of the career break will not count for continuous service for leave purposes.
- **Essential Car User Allowance / Telephone Allowance** - All allowances will cease to be paid from the date the career break commences.
- **Trades Union Membership** - Employees can continue membership of a trade union and would still be subject to the benefits of membership, providing that subscriptions are kept up to date. Arrangements would have to be made between the employee and the trade union as to how subscriptions will be paid.
- **Financial Implications** - On return to work, employees would resume, for pay purposes, at the same spinal column point, which had been reached at the time the career break began. This is subject to any restructuring or major organisational changes.
- **Pensions – LGPS** - The period of the career break will not count for pension purposes unless the employee elects to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of absence. The amount of pension lost is calculated as the appropriate fraction of the employees lost **pensionable pay** for that period of absence (i.e. 1/49th of lost **pensionable pay** if the employee is in the main section of the scheme or 1/98th if the employee is in the 50/50 section).
- If the employee wishes to purchase the amount of lost pension and makes the election within 30 days of returning to work then the cost of the APC is split between the employee and the School. The employee will pay one-third of the cost and the School will pay the rest. This is known as a Shared Cost Additional Pension Contributions (SCAPC). The employee can pay these additional contributions in a one-off lump sum or through regular payments from salary. If the employee makes the election more than 30 days after returning to work they will have to pay the full cost of the APC.

- The maximum period of absence an employee can elect to buy back by a SCAPC is a period of 3 years.
- To purchase APC/SCAPC the employee should contact the Payroll Team at hr.payroll@southtyneside.gov.uk
- Pensions – Teachers/NHS – employees should contact their relevant pension scheme to discuss options.
- **National Insurance Contributions** – the School/Council will not pay National Insurance Contributions during the career break. This could affect the employee's State Pension. Employees are advised to contact HM Revenues and Customs directly should they have any queries.
- **Long Service Award** - the term of the career break will not count towards qualifying service for the Long Service Award.

7 Breaching the Career Break Scheme and Resignation during the Break

A breach in the terms of the career break agreement by the individual may result in the career break being drawn to a close and/or formal disciplinary action being taken.

Should the individual resign during the career break, there may be financial implications. These may be, for example, any financial penalties in relation to external training costs. Employees would not be expected to work their contractual notice period and would resign with immediate effect.

Appendix B – Job Share

1 Introduction

Job Share is designed to increase the variety of work available to those not seeking full-time employment and it is intended to:

- increase employment opportunities for people committed to caring for children, partners or other relatives
- make it easier for employees returning from maternity leave to cope with both their career and family, thus retaining the benefits of their skills and experience
- improve possibilities of career development for people who do not work full-time
- give employees the opportunity to work fewer hours, if they wish to do so

It also serves as a valuable means of retaining trained and experienced staff who, due to a change in their own domestic circumstances, might have to leave if the opportunity to job share was not available.

2 Principles

- Any employee in a post working full-time hours may apply to job share, however there is no automatic right to job share.
- Each application will be decided on an individual basis taking into account the wishes of the individual and the needs of the School.
- All job sharers will be provided with revised variation to their contract in line with their revised working arrangements.

3 Definition of Job Share

Job sharing occurs when the duties and responsibilities of an established full-time post are divided or shared voluntarily between two people. The full-time salary and accompanying conditions of service of the post being shared will be divided on a pro-rata basis between the job sharers in proportion to the number of hours they work.

4 Job Share Arrangements

Approval given to a job share application is conditional upon the recruitment of a suitable job share partner and once a job share partner has been made an offer of employment, it will not be possible for

the employee originating the job share request to withdraw their application. The job share arrangement is expected to commence as soon as possible.

4.1 Posts Exempt from Job Sharing

The School, whilst believing that, with careful planning and management, most posts can be shared, reserves the right to ensure that operational needs will not be adversely affected. It would only be in exceptional circumstances that a post would be exempt from job sharing.

Examples of situations where job share may not be appropriate include jobs:

- which cannot be carried out by two employees due to the need for continuity;
- where one to one client contact is high and the lack of continuity would have an adverse impact;
- which have a residential requirement with employees living on site e.g. caretakers

These instances are examples only, not an exhaustive list.

Where a Head Teacher (or authorised representative) feels that a job should be exempt from the Scheme they are advised to contact their HR Adviser, to discuss the reasons why the position is not appropriate for job share. After discussions and considerations to the request, the Head Teacher should inform the employee accordingly. The decision of the Head Teacher is final.

If after discussion the job is exempt, the Head Teacher (or authorised representative) must complete the Flexible Working Application Form and return it to the HR Employment Team, HR Services.

4.2 Working Arrangements

Subject to the needs of the School, job share arrangements can be as flexible as possible in terms of hours and days worked. There are various ways in which the working week may be divided for job sharers and there are no pre-set rules.

It is essential for both job sharers and Head Teacher/managers that there are established working patterns. Examples include mornings or afternoons, alternative weeks and split week arrangements. An example of a job share pattern for a shift worker may be 2 shifts one week and 3 shifts the next.

There is no minimum number of hours that a job sharer must work, although Head Teachers/managers must take into account the recruitment, retention and training problems that

may occur if part of the post is limited to a small number of hours. All service, irrespective of hours worked per week counts towards continuity of employment.

In agreeing the working arrangements it may be necessary for the job sharers to have a period of overlap to hand over effectively and ensure good communication and co-ordination of work. Any overlap time required must be achieved within the established total hours for the post. Even where there is not the regular need to have overlap, job sharers may wish to meet from time to time to discuss common problems and difficulties. Head Teachers/managers are encouraged to make appropriate arrangements for these purposes.

4.3 Conditions of Service

- **Overtime**

Overtime payments at premium rates will not be paid until an individual's hours exceed those of a full-time equivalent. Such arrangements should be agreed with the line manager before any additional hours are undertaken.

- **Payment of Allowances**

Posts occupied by job sharers shall, where appropriate, include the relevant allowance and shall be split on a pro rata basis between both job sharers.

- **Pensions**

Where an employee works 50% full-time for a year, under Pensions Regulations only 6 months will be counted towards the employees' reckonable service though retirement benefits will be calculated on a full-time salary basis. For further information on pensions please contact the Pensions Service.

- **Maternity Provisions**

Job Sharers are entitled to the provisions of the Maternity Leave Policy.

- **Training and Development**

Training opportunities will be made available to job sharers on the same basis as to full-time employees subject to operational requirements. Where job sharers are entitled to attend courses outside their normal job share working hours, they should be given time off in lieu of the hours of attendance outside their normal working hours.

Applications for financial assistance/time off for longer term vocational training will be considered on an equal basis with applications from full-time staff.

- **Discipline/Resolving Issues at Work Procedures**

The School's Resolving Issues at Work will apply to job sharers as they apply to all other employees.

4.4 Covering absence

When one partner is absent, there is no expectation that the other job sharer will cover their partner hours. However, if the absence is for a significant period of time, then the remaining partner may be asked to provide cover where personal circumstances allow. These arrangements should be agreed with the Head Teacher before any additional hours are undertaken and a revised variation to contract letter would be issued for the agreed period.

4.5 Maternity / Adoption Leave Returners

Employees returning from maternity leave or adoption leave have the right to return to work in the job in which they were employed under their original contract of employment, or to a suitable alternative vacancy if this is not reasonably practicable. Employees may return in a job share capacity unless, under exceptional circumstances, it is decided that the post cannot be filled on a job share basis. In this respect, HR Services must be consulted.

Employees who would like to work on a job share basis may submit an application to job share at any stage of their maternity/adoption leave i.e. before, during or after their period of leave. If however, they wish to return to work in a job share capacity, they must indicate this preference to their Head Teacher (or authorised representative) at least 3 months prior to their return date to allow sufficient time to advertise the remainder of the post. Whilst every effort will be made to find a job share partner, employees will only be able to return from maternity/adoption leave on a job share basis once a suitable partner has been found. If a suitable job share partner cannot be found alternative ways of returning on a part time basis should be discussed.

The right to return to work for a minimum of 3 months (see Maternity Leave Policy) to retain their occupational maternity pay applies equally to employees returning on a job share basis. It is not necessary for employees to return on a full-time basis to retain their maternity pay. Please refer to the Maternity Leave Policy for more information.

4.6 Request to Work Full-Time

Employees working job share who wish to work full-time hours and are unable to do so in their substantive post can apply for suitable vacancies in the normal way and will be required to go through the School's recruitment and selection process. Please refer to the Recruitment and Selection Policy for more information.

5 Recruitment

5.1 Filling Job Share Posts

Recruiting to a vacant post takes varying amounts of time and employees who wish to job share their existing post should submit an application at least 3 months before they wish the job share arrangement to start.

Once agreement in principle has been given to a job share request, the School will take reasonable steps to find a job share partner to undertake the remaining hours of the post. The employee will continue to work full time until a suitable job share partner is found. The School will endeavour to fill the remaining half of the post as soon as possible, however, if no suitable job share partner can be found, the job share application will be unsuccessful. Where a job share arrangement has been approved, the appropriate recruitment documentation should be submitted to the HR Recruitment Team for the remaining hours of the post.

Adverts should indicate the hours and where possible, the working pattern. If this is to be negotiated, then it should be included in the advert.

5.2 Resignation of a Job Share Partner

Should one partner of a job share arrangement leave, the remaining hours may be offered to the job share partner on a full-time basis if this is felt to be appropriate. Alternatively, the job share vacancy can be advertised. When the remainder of the job share post is advertised, the existing job sharer should be consulted to establish whether they wish to retain their existing hours or change them or whether he/she is willing to re-negotiate these once a new partner has been found.

Should it not be possible to recruit a new partner, the job share arrangement will be reviewed. This may lead to the arrangement ending. If this occurs, every effort will be made to redeploy the employee affected into a job share post with the job share arrangement continuing until a suitable alternative is found. Please refer to the Redeployment Policy for more information.

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