

---

**Report to: Clackmannanshire Council**

---

**Date of Meeting: 14 September 2023**

---

**Subject: Flexible Working – Day 1 Right**

---

**Report by: Senior Manager, HR and Workforce Development**

---

## **1.0 Purpose**

- 1.1. To seek Council agreement to amend the current provision that staff require 26 weeks continuous service to be able to make a flexible working request to it being a day one entitlement.

## **2.0 Recommendations**

Council are asked to:

- 2.1. **Note** the overall report.
- 2.2. **Note** that the proposed change has been discussed with Trade Union Colleagues (para 3.16)
- 2.1. **Agree** that, in advance of proposed changes to flexible working legislation by the UK Government, that the right to make a flexible working request becomes a day one entitlement at Clackmannanshire Council from the point that Council approve this proposal.

## **3.0 Considerations**

- 3.1. The UK Government published a consultation on making flexible working the default in September 2021.
- 3.2. In response to the consultation the UK Government introduced legislation to change the existing flexible working legislation.
- 3.3. The Employment Relations (Flexible Working) Act 2023 received Royal assent in July 2023.
- 3.4. Employees will be allowed to make **two** flexible working requests within a 12-month period rather than one.
- 3.5. The time for employers to respond to a request will reduce from three months to **two months**.

- 3.6. There will be a duty to **discuss alternatives to the request**, meaning an employer must consider whether there are alternative forms of flexible working available if they are going to refuse the employee's request.
- 3.7. There will be **no** change to the eight reasons an employer has to reject a request for flexible working.
- 3.8. The Legislation is expected to come into force mid-2024.
- 3.9. The Government has emphasised in its response that the changes remain a right to request flexible working and not an automatic right for an employee to work flexibly.
- 3.10. The government has also indicated it will create a day-one right to request flexible working, although employment lawyers have pointed out that this is not explicitly stated in the bill, and would need to be dealt with under separate legislation
- 3.11. ACAS is also currently consulting on proposed changes to its statutory Code of Practice on handling requests for flexible working to reflect the anticipated reforms to legislation, significant shift in flexible working in the workplace and changing views since their existing Code was published in 2014. The consultation closes in September 2023. The aim of the Code is to provide employers, employees and representatives with a clear explanation of the law on the statutory right to request flexible working, alongside good practice advice on handling requests in a reasonable manner.
- 3.12. The Council currently has a number of flexible working and family friendly policies including compressed hours, job share, part time hours, home working, annualised hours, carers leave, flexi time, special leave, menopause, pregnancy loss, flexible retirement, winding down.
- 3.13. There is currently a requirement for staff to have been continuously employed by the Council for 26 weeks before they are able to make a request for flexible working.
- 3.14. Amending the requirement to have 26 week continuous services to a day one entitlement demonstrates the Council's ongoing commitment to work life balance.
- 3.15. Once legislation is implement and the ACAS code published HR will ensure appropriate changes are reflected in our policies and procedures which will be consulted on with our Trade Union Colleagues via the Councils Policy group.
- 3.16. The proposed change was discussed and agreed with Trade Union Colleagues on 02 August 2023.

#### 4.0 Sustainability Implications

4.1. There are no direct sustainability impacts flowing from the recommendations in this Report.

#### 5.0 Resource Implications

5.1. *Financial Details*

5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

5.4. *Staffing*

#### 6.0 Exempt Reports

6.1. Is this report exempt? Yes  (please detail the reasons for exemption below) No

#### 7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box )

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

#### 8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes  No

The existing worklife balance policy was equality assessed previously.

**9.0 Legality**

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. No  X

**10.0 Appendices**

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None

**11.0 Background Papers**

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes please list the documents below) No  X

**Author(s)**

NAME	DESIGNATION	TEL NO / EXTENSION
Chris Alliston	Senior Manager – HR and Workforce Development	2184

**Approved by**

NAME	DESIGNATION	SIGNATURE
Stuart Crickmar	Strategic Director Partnership & Performance	