

TO:	Governance Sub-Committee
PREPARED BY:	Linda Sichi (Deputy CEO)
SUBJECT:	FLEXIBLE WORKING POLICY
DATE OF MEETING:	25 November 2024
APPROVED BY:	Paul Martin (CEO)

# FLEXIBLE WORKING

# POLICY

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## **1. MILNBANK HOUSING ASSOCIATION (MHA) STRATEGIC OBJECTIVES**

MHA's mission is to provide excellent homes and services in a thriving community. We believe that people living in the MHA community should:

- Have warm, safe, and affordable homes, and receive excellent services from MHA.
- Live in neighbourhoods that are clean and well cared for, with real community pride.
- Have access to opportunities and services that promote a good quality of life.

## **2. MHA's VALUES**

Working as 'One Milnbank' so that we offer the same quality of services, support and housing to all tenants and residents.

## **3. LEGAL & REGULATORY COMPLIANCE**

The Management Committee leads and directs MHA to ensure good outcomes for its tenants and other service users. MHA adheres to the Scottish Housing Regulator's Regulatory Framework Financial & Regulatory and to all relevant legal employment requirements associated with this policy. The specific legal framework around the Flexible Working Policy is as follows:

- Employment Rights Act 1996 sets out statutory employment rights of workers and employees.
- Employment Act 2002 - the right for parents of young and disabled children to apply to work flexibly to have a better balance between their home and work responsibilities.
- Work and Families Act 2006 - builds on the right to request flexible working as it extends this right to include employees who care for or expect to care for adults.
- Employment Relations (Flexible Working) Act 2023 - reduced the waiting time to make a flexible working request from 26 weeks employment to a day one right as well as allowing for 2 requests to be made in a 12-month rolling period and reducing the time to respond from 3 months to 2 months.

## **4. POLICY INTRODUCTION**

- 4.1 MHA recognises that introducing a flexible working policy will ensure compliance with the right to request flexible under the Employment Act 2002 and Work and Families Act 2006. The policy has also been introduced to help ensure equality and fairness throughout the process and aid employees work life balance. Employees have the right to request changes to their working hours or place of work under the

statutory right in the Employment Rights Act 1996 to request flexible working.

- 4.2 MHA believes its staff members are an asset and is committed to attracting and retaining good staff and utilising all talent and experience available. MHA understands that it is important for staff members to establish a work life balance and flexible working may assist employees to organise their employment to fit in with other parts of their life.

## **5. PRINCIPLES OF THE FLEXIBLE WORKING POLICY**

- The policy has been produced to ensure compliance with MHA's legislative requirements.
- It aims to provide workers with the opportunity to request to change their standard working arrangements to have a better balance between their home and work responsibilities and for MHA to retain talent and skills in the workforce and react effectively to changing market conditions.
- Details the flexible working procedure that must be followed and provides standard letter templates and forms to use.
- Is only applicable when the employee instigates the request to work flexibly (and not when it is instigated by the employer).
- Re-emphasizes MHA is a good place to work by aiming to retain skills and experience and adapting to changes.

## **6. ELIGIBILITY**

Under the provisions set out in the Employment Rights Act 1996 every employee has the right from day one of employment to request a change to their contractual terms and conditions of employment. An employee has the right to make 2 flexible working requests within a rolling 12-month period. To be eligible, staff members must:

- Be an employee.
- Not be an agency worker.
- Not have made more than 2 applications to work flexibly under the right during the past 12 months.

## **7. TYPES OF FLEXIBLE WORKING**

Some examples of flexible working are documented below, however please note this list is not exhaustive.

### Part time working

A system whereby the employee is contracted to work fewer than the standard full-time hours. There are many variations to part time working such as later start or earlier finish times, afternoons or mornings only and fewer working days in the week.

### Job-sharing

An arrangement whereby two part time (or occasionally more) employees share the responsibility of a position. In a 'shared responsibility' arrangement the individuals both carry out all the duties of the job simply by picking up the work where the other employee left off. A 'divided responsibility' arrangement is when the duties of the position are divided between the two individuals, with each being able to provide cover for the other as and when necessary.

### Term time working

The employee remains on a permanent contract but can take unpaid leave of absence as agreed.

### Working from home

An approach whereby an employee carries out a proportion of his/her duties from home rather than on MHAs premises.

### Compressed Hours

A system permitting employees to work their total number of contractual hours over fewer working days. For example, a five-day working week may be compressed into four days.

## **8. FLEXIBLE WORKING PROCEDURE**

MHA aims to deal with requests as soon as possible and within 2 months of first receiving the request, including any appeal.

If this timescale is not possible then the employer can extend the time limit provided the staff member agrees.

1	Application to apply for flexible working	<ul style="list-style-type: none"><li>• Apply in writing.</li><li>• State application date, the change to working conditions the employee is seeking and when they would like this change to come into effect.</li><li>• State that it is a statutory request.</li><li>• State whether a previous application has been made to MHA and the date of the application.</li><li>• Sign &amp; date it.</li></ul>
2	Once the request is received	If employers are happy to accept the change requested, they can confirm it in writing without a need for a meeting. Alternatively, a meeting should be arranged.
3	The Meeting	<ul style="list-style-type: none"><li>• Employee will be invited, in writing, to a meeting and informed they can be accompanied by a fellow employee or TU representative of their choosing.</li><li>• The employee's proposal will be discussed.</li><li>• If the employee's proposal is not suitable to the business, alternative solutions will be discussed.</li><li>• If an employee fails to turn up for a meeting without prior notification on more than one occasion and fails to provide a satisfactory explanation, MHA will treat the application as withdrawn. This will be confirmed in writing informing the employee this will constitute one of their statutory 2 flexible working requests they</li></ul>

		<p>have a right to make in a rolling 12-month period.</p> <ul style="list-style-type: none"> <li>• After the meeting the manager will inform the employee of their decision in writing, along with all details of the change.</li> </ul>
4	Flexible working Acceptance	<ul style="list-style-type: none"> <li>• Once both sides have agreed to the changes requested. Or an agreed variation of the request, a permanent variation of the employee's terms and conditions will be issued. The employee has no automatic right to return to the original arrangement.</li> <li>• A trial period for a specified time may be applicable to establish if the new arrangement is suitable for the needs of the business. This will be confirmed in writing following the meeting and acceptance.</li> </ul>
5	Flexible working rejection	<p>If the employee's application is declined, it will be confirmed in writing, specifying the business reasons for rejection. One (or more) of the following reasons may apply:</p> <ol style="list-style-type: none"> <li>1. Burden of additional cost</li> <li>2. Inability to reorganise work amongst existing staff</li> <li>3. An inability to recruit additional staff</li> <li>4. A detrimental impact on quality</li> <li>5. A detrimental impact on performance</li> <li>6. Detrimental effect on ability to meet customer demand</li> <li>7. Insufficient work for the periods the employees propose to work</li> <li>8. A planned structural change to the business.</li> </ol>
6	Withdrawal of application	<p>MHA can treat an application as withdrawn under the statutory provisions where the employee has:</p> <ul style="list-style-type: none"> <li>• Notified MHA, verbally or in writing, that the application is withdrawn.</li> <li>• Without a reasonable explanation failed more than once to attend a meeting or appeal meeting</li> <li>• Refused to provide MHA with information required to assess whether the contract variation should be agreed to.</li> </ul>
7	Appeal Process	<p>An employee no longer has the automatic right to appeal but MHA may consider hearing the appeal as best practice.</p> <ul style="list-style-type: none"> <li>• The staff member can appeal against MHAs decision to refuse an application.</li> <li>• The appeal should be made in writing to a named manager of at least one level</li> </ul>

		<p>higher than the manager who made the original decision if possible and then a meeting will be held to discuss the appeal and any options available.</p> <ul style="list-style-type: none"> <li>• The employee will be informed they can be accompanied to the meeting by a fellow employee or trade union representative of their choice</li> <li>• After the meeting, the employee will be notified in writing, confirming the grounds for decision.</li> </ul>
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## **9. RESPONSIBILITIES**

Both the employee and the employer have certain responsibilities within this procedure as follows below:

### **9.1 Employee's responsibilities**

- To provide a careful application.
- To ensure their application is valid by checking that all the eligibility criteria are met and that they have provided all necessary information.
- To ensure the application is made well in advance of when the change is proposed to take effect.
- To arrive at meetings on time and to be prepared to discuss their application in an open and constructive manner.
- If necessary, be prepared to be flexible themselves to reach an agreement with the employer.
- If the employee wishes to be accompanied by a representative, the employee must ensure that their representative can attend on the date proposed by the employer or an alternative date within the time frame previously stipulated

### **9.2 MHA's responsibilities**

- To consider requests thoroughly and in good faith in accordance with the set procedure
- To deal with requests as quickly as possible and within 2 months.
- To decline a request only where there is a recognisable business ground and to explain to the employee why it applies
- To ensure that any variation of the procedure is agreed in advance with the employee and recorded in writing
- Not to subject an employee to detriment or dismissal for making a flexible working request.

## **10. EQUALITY & HUMAN RIGHTS**

MHA's is committed to equal opportunities, and we will respond to the different needs and service requirements of individuals, and we will not discriminate against any individual for any reason outlined in Equality & Human Rights Legislation.

## **11. DATA COLLECTION**

MHA will manage all personal data in accordance with our obligations under the GDPR regulations and the Association's Policy.

## **12. POLICY MONITORING & REVIEW**

The Flexible Working Policy will be reviewed by the Governance Sub-Committee every 2 years or in line with EVH updates, or as otherwise deemed necessary.

## **APPENDICES**

A	Flexible working application form
B	Invite to discuss flexible working application
C	Flexible working request acceptance
D	Refusal to accept application for Flexible working
E	Flexible working appeal hearing outcome (accepted)
F	Flexible working appeal hearing outcome (rejected)
G	Withdrawal of Flexible working application
H	Withdrawal of Flexible working acknowledgement



**APPENDIX A**

## Flexible Working Application Form

**Note to the employee:**

You can use this form to make an application to work flexibly under the right provided in law.

It will help if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be valid. Please give your completed form to your line manager.

<b>Employee Details</b>	
<i>Name:</i>	
<i>Date of Application:</i>	
<i>Start Date:</i>	
<i>Job Title:</i>	
<i>Department:</i>	
<i>Manager:</i>	
<i>Current Hours worked per week:</i>	
<i>Current Working Pattern:</i>	
<i>Previous Application Made &amp; Date (if applicable)</i>	
<b>Proposal</b>	

*Please detail your proposal below, including your proposed working pattern, effective date of change, if the request is temporary or permanent.*

**Name:** \_\_\_\_\_

**Signed:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

## **APPENDIX B**

DATE

NAME

ADDRESS

POSTCODE

Dear NAME

### **Invitation To Meeting to Discuss Application for Flexible Working**

Further to your recent application requesting flexible working dated INSERT DATE, I am writing at this time to invite you to a meeting to discuss your request in detail.

The meeting will be held as follows:

**Date:**

**Time:**

**Location:**

**Person conducting:**

If you wish you may be accompanied at this meeting by a fellow employee or trade union representative of your choice. Please let me know in advance who will be attending with you.

I look forward to meeting with you.

Yours sincerely

INSERT NAME

INSERT TITLE

## **APPENDIX C**

DATE

NAME

ADDRESS

POSTCODE

Dear **INSERT NAME**

### **Flexible Working Request Acceptance**

Further to your application for flexible working dated **INSERT DATE** and our subsequent meeting on **INSERT DATE** I am writing to inform you that your application for Flexible Working has been accepted.

Or

Further to your application for flexible working dated **INSERT DATE** and our subsequent meeting on **INSERT DATE** we discussed your request in depth and unfortunately your original request could not be accepted. However, following subsequent discussions an agreement was reached regarding an alternative solution and a variation of your contract has been accepted.

Your new working arrangement will be as follows:

- (**insert all details of changes, hours, location, salary etc.**)

Your new working arrangement will take effect from **INSERT DATE**.

All other terms and conditions will remain the same as per your contract dated **INSERT DATE**.

In anticipation of your confirmation of the above arrangement/s I have enclosed 2 copies of this letter. Please sign and date one copy and return it to **INSERT DETAILS**.

Yours sincerely

**INSERT NAME**

**INERT JOB TITLE**

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I accept the changes to my terms and conditions as documented above.

**Name:** \_\_\_\_\_

**Signed:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

## **APPENDIX D**

### **Refusal to accept application for flexible working**

#### **Note to the employer**

Before using the letter, you must ensure that full consideration has been given to the application. You must state the business ground(s) as to why you are unable to agree to a new working pattern and the reasons why the ground(s) applies in the circumstances.

The list of the permissible business grounds under which a request may be refused are:

- Burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise 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.

DATE

NAME

ADDRESS

POSTCODE

Dear **INSERT NAME**

### **Outcome of Flexible Working Application**

Following receipt of your application dated **INSERT DATE** and our subsequent meeting on **INSERT DATE** I have considered your request for a new flexible working pattern.

I am sorry but I am unable to accommodate your request on the following business ground(s):

- Burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise 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.

(Delete the ones that are not applicable)

The grounds apply in the circumstances because:

- **INSERT REASON**

If you are unhappy with the decision you may appeal against it in writing to **INSERT DETAILS** within five working days of receiving this letter.

Yours sincerely

**INSERT NAME**

**INSERT TITLE**

## **APPENDIX E**

DATE

NAME

ADDRESS

POSTCODE

Dear **INSERT NAME**

### **Flexible Working Appeal Hearing Outcome**

Further to your application for flexible working, and your subsequent appeal meeting, I am writing to inform you that your appeal has been upheld which will result in a permanent change to your Terms and Conditions of Employment. As agreed, your new working pattern will be:

- **INSERT ALL DETAILS OF CHANGES**

Your new working arrangement will take effect from **INSERT DATE**

In anticipation of your confirmation of the above arrangement/s I have enclosed 2 copies of this letter. Please sign and date one copy and return it to (**insert name of person letter should be returned to**)

Yours sincerely

**INSERT NAME**  
**INSERT JOB TITLE**

---

I accept the changes to my terms and conditions as documented above.

**Name:** \_\_\_\_\_

**Signed:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

## APPENDIX F

DATE

NAME

ADDRESS

POSTCODE

Dear Name

### **Flexible Working Appeal Hearing Outcome**

Further to your application for flexible working dated **INSERT DATE** and your recent appeal hearing on **INSERT DATE**, I am writing to inform you that your appeal has been rejected.

The reason for the decision is (**INSERT DETAILS OF HOW THE DECISION HAS BEEN REACHED**)

As a result, there will be no changes to your current working arrangements and other terms and conditions.

**EITHER** – You have the right to make one further flexible working request from the date of the original request

OR

I inform you that you have now exhausted your right to make a further flexible working request until **INSERT DATE 1 YEAR FROM DATE OF FIRST REQUEST IF 2 HAVE BEEN MADE IN THE LAST 12 MONTHS,**

Yours sincerely

**INSERT NAME**

**INERT JOB TITLE**



## **APPENDIX G**

### **Withdrawal of Flexible Working Application**

***Note to the employee***

*This template letter provides notification to your employer that you wish to withdraw your application for a flexible working arrangement. You have the right to make 2 requests in a rolling 12-month period so if this is your second request in 12 months you may not be able to make a further request for a period.*

Date

NAME  
ADDRESS  
POSTCODE

Dear **INSERT NAME**

**Withdrawal of flexible working application**

I wish to withdraw my application to work flexibly which I submitted to you on **INSERT DATE**.

I understand that this will count towards my right to make 2 flexible working requests within a rolling 12-month period.

Yours sincerely

**INSERT NAME**  
**INSERT TITLE**

## **APPENDIX H**

DATE

NAME  
ADDRESS  
POSTCODE

Dear **INSERT NAME**

### **Withdrawal Notification Acknowledgement**

Further to your recent application for a flexible working request, I am writing to inform you that your application for Flexible Working dated **INSERT DATE** is viewed as being withdrawn due to **INSERT REASON FOR WITHDRAWAL AS SPECIFIED IN POLICY**.

Please note this will count towards your right to make 2 flexible working requests within a rolling 12 month period.

Your sincerely

**INSERT NAME**  
**INSERT JOB TITLE**