1. Introduction

Throughout this Policy, the words ‘Translink’ ‘Company’ and/or ‘the Group’ refer to all corporate entities under the ownership of the Northern Ireland Transport Holding Company (NITHC). This includes the parent company and each subsidiary either individually or taken together as a group.

On 6 April 2003 the right to request flexible working arrangements became available under law, for those parents of young and disabled children who are eligible. From 18th July 2010 this right was extended to cover children under the age of seventeen (previously six).

From 6 April 2007 the right to request flexible working was extended to employees who care for adult dependants. Accordingly our policy has been updated to reflect these changes.

The organisation recognises the contribution of all its employees and also acknowledges that at some time in their working lives, employees may find it difficult to fulfill domestic, family and working commitments due to having caring responsibilities. Where this occurs the organisation will consider practical help through this flexible working policy.

No employee will be treated less favourably, suffer detriment, or be dismissed because they request or take up flexible working.

2. Scope

The Company is supportive of the principle of flexible working and the benefits it can bring. These benefits however, are only achieved when the arrangements are appropriate to individual circumstances and can be accommodated within the essential requirements of the business. Accordingly the Company may refuse flexible working requests on business grounds. In such circumstances specific reasons will be given to the applicant.

Where flexible working is agreed this will result in a permanent variation to employees’ terms and conditions of employment. Where an employee’s circumstances change in relation to the need for flexible working, there is no statutory right for a return to the terms and conditions that applied to them prior to their flexible working request being granted. However, where a short term need exists for a flexible working arrangement (e.g. 6 months to care for a sick
dependent), consideration may be given by the line manager to accommodate this.

Employees in operational grades, e.g. Bus Drivers, should note that where their normal work pattern contains an element of unsocial hours, e.g. early starts, late finishes, weekend work, etc, they may expect that any agreed change to their work pattern may also include an element of unsocial hours.

Whilst an agreement may be reached to accommodate a request for flexible working on a temporary basis during the summer months, a Bus Driver will be allocated the duties of Junior Spare driver.

Employees granted new working arrangements under flexible working should be aware that this may result in salaries being reduced on a pro rata basis and/or the loss of other payments such as shift premiums. These may in turn have a knock-on effect on the level of entitlements that are related to pay, e.g. redundancy and occupational pensions.

The relevant Trade Unions have been consulted on the application of this Policy and they have given it their full support.

Translink will ensure that all its Managers and other staff dealing with requests under this procedure receive the necessary guidance/briefing.

3 The Right to Request to Work Flexibly

Under flexible working legislation, eligible employees have the right to request flexible working patterns and any such requests will be considered seriously and sensitively by their Manager. It should be noted that employees have a right to request flexible working but there is no statutory right to flexible working.

Flexible Working for Employees who are Parents

There are certain criteria to be met, i.e. a parent who wishes to make such a request must:

- be an employee
- have a child under 17 years of age or under 18 if that child is disabled, i.e. those entitled to Disability Living Allowance
- be responsible for the upbringing of the child
and is either:

- the father, mother, adopter, legal guardian, special guardian, foster parent or private foster carer of the child, or a person who has been granted a residence order in respect of a child, or is

- married to or the partner or civil partner of the child’s mother, father, adopter, legal guardian, special guardian or foster parent or private foster carer of the child, or a person who has been granted a residence order in respect of a child

- be continuously employed for 26 weeks for a Translink operating company at the date the application is made
- not be an agency worker
- not have made another application for flexible working in the previous 12 month period (taken from the date on which the previous application was made)

Flexible Working for Employees who Care for Adult Dependents

There are certain criteria to be met, i.e. for the employee to be eligible the dependant must:

- be the spouse, partner or civil partner of the employee
- be a near relative defined as:
  - a parent (including step or adoptive) parents-in-law,
  - adopter, guardian, special guardian, son or daughter, son-in-law, daughter-in-law, brother or sister, brother-in-law, sister-in-law, aunt, uncle or grandparent. Step relatives, half blood relatives, adoptive relationships, and relationships that would have existed but for an adoption, i.e. an employee’s natural relatives, are also included.
- or be none of the above categories but lives at the same address as the employee

In the context of this legislation caring envisages a range of tasks that range from keeping a relative company and helping with jobs such as housework or shopping through to supervision, personal care and nursing. Groups needing care are likely to include older people, people with mental health problems and people with disabilities.
4. **Applications for Flexible Working**

Applications must:

- be made in writing by completing the Flexible Working Application Form and be sent to the Line Manager
- state that the application for flexible working is made under the statutory right
- confirm:
  
  a) responsibility for the upbringing of a child under 17 or a disabled child under 18 and that the applicant is either the father, mother, adopter, legal guardian, special guardian, foster parent or private foster carer of the child, or a person who has been granted a residence order in respect of a child, or is married to or the partner or civil partner of the child’s mother, father, adopter, legal guardian, special guardian or foster parent or private foster carer of the child, or a person who has been granted a residence order in respect of a child or;
  
  b) responsibility for the care of a dependant and is either that person’s spouse, partner, civil partner or relative, or if not, is living at the same address as the adult
- specify the change applied for and the date on which it is proposed the change should become effective
- specify if a temporary change is required to manage a short term caring arrangement
- explain what effect employees’ think this will have on the Company, and how in their opinion any such effect might be dealt with by the company
- state whether any previous applications have been made to the employer, and if so when
- be dated

Please note: one application for flexible working can be made every 12 months under this right, irrespective of whether a previous application was made in respect of a different caring responsibility. Each year runs from the date when the previous application was made. Before employees make any subsequent applications, they should bear in mind that they will still need to meet the eligibility criteria at the time of their subsequent application.
It is recommended that employees should submit their fully completed flexible working application well in advance of when they wish the change to take effect, as the process can take up to 14 weeks (or longer if delayed for a particular reason) to complete. Employees should also be aware that where flexible working is requested to care for children, the request cannot be made until the child is born.

Company Responsibility when Applications are Received

The Company will assess:

- whether employees meet the application criteria
- whether applications contain all the necessary information

Incomplete applications will be returned to employees to provide the missing information and the timetable for the statutory procedure will not start until completed applications have been received. If an employee unreasonably refuses to provide Translink with the information needed to assess the request, the Company may treat the application as being withdrawn. In such circumstances the employee will not be able to make another application for a further 12 months and will be advised in writing. See also Section 8 – Withdrawal of Flexible Working Application.

Provided applications have been completed correctly, the Company will take the date of receipt by the Manager as the date upon which the timetable for the statutory procedure commences. The Manager will acknowledge receipt of requests in writing.

The Company will consider all applications objectively and establish whether the desired work pattern can be accommodated within the needs of the business.

Step One – The Meeting

The employee’s Manager will arrange a meeting with the employee within 28 days of receipt of the fully completed application form. Any extension to the date agreed for the meeting between the parties will be recorded in writing, specify that the extension relates to the period in which to hold the initial meeting, state when the extension will end, be dated and be sent to the employee.

An employee who fails to attend the meeting without notification should contact his or her line manager as soon as possible to explain their absence and
rearrange the meeting at a mutually convenient time and venue. Details of the rearranged meeting will be confirmed in writing. Should the employee fail to attend the rearranged meeting without providing a reasonable explanation, the company may regard the application as having been withdrawn and the employee will be notified of this in writing. (See also Section 8 below)

The employee has the right to be accompanied by a trade union representative or a work colleague at any meeting within the application process.

**Step Two – The Decision**

Following the meeting, the Company will advise the employee in writing of its decision within 14 days.

If the Company accepts the request for flexible working, the Line Manager will notify Human Resources, who will advise the individual in writing, setting out details of the new working arrangements and confirm the date of commencement.

Employees should note that where their normal work pattern contains an element of unsocial hours, they may expect that any agreed change to their work pattern may also include an element of unsocial hours.

If the Company rejects the request for flexible working, the line manager will advise the individual in writing. The written notification will set out the business reasons for rejecting the application and provide an explanation as to why the grounds for refusing the application apply in the circumstances. The written notification will also advise the employee of his/her right to appeal within 14 days after the date of Translink’s notification of its decision. A copy of this letter will be sent to Human Resources.

Should the Company need more time to reach a decision, the employee will be advised in writing and his/her agreement to the extension will be obtained. The employee will be informed that the extension relates to the period in which the Company is required to provide its response, and when the extension will end.

5. **The Appeals Procedure**

   If the employee chooses to appeal the Company’s decision, he or she must do so in writing within 14 days after the date of notification of the decision, setting
out the grounds for making the appeal. The appeal will be dealt with by a more senior manager to the one who considered the original application.

The employee’s Manager will arrange the appeal meeting within 14 days after receiving the notice of appeal.

The employee will be informed of the outcome of the appeal in writing within 14 days after the date of the meeting.

The employee has the right to be accompanied by a trade union representative or a work colleague at the hearing.

**If the appeal is upheld the employee will be advised in writing;**

The written decision will include details of the new working arrangements and confirm the date of commencement

**If the appeal is not upheld the employee will be advised in writing;**

The written decision will state the grounds for the decision that are appropriate to the employee’s own grounds for making the appeal and explain why the grounds for refusal apply in the circumstances.

An employee who fails to attend the appeal meeting with notification should contact their line manager as soon as possible to explain their absence and rearrange the meeting at a mutually convenient time and venue. Details of the rearranged appeal meeting will be confirmed in writing. Should the employee fail to attend the rearranged meeting without providing a reasonable explanation, the company will regard the application as having been withdrawn and the employee will be notified of this in writing.

A written notice of the appeal outcome constitutes a final decision and is effectively the end of Translink’s formal flexible working procedure.

6. **Extension of Time Limits**

The various time limits set out in this procedure will be strictly adhered to. However there may be exceptional occasions when it is not possible to complete a particular part of the procedure within the specified time limit, as follows:
i) **Through agreement by the employer and the employee**
Such extensions of time limits will only take place with the express agreement of both the line manager and the employee. The line manager will make a written record of the agreement specifying the period of the extension and the date on which the extension is to end.

ii) **Through the line manager’s absence**
Where an application is sent to the appropriate line manager and the line manager is absent from work due to leave or illness, an automatic extension applies. The period that Translink has to arrange the meeting will commence either on the day of the line manager’s return or 28 days after the application is made, whichever is sooner. On a line manager’s return an acknowledgement letter confirming receipt of the application will be sent to the employee so they are aware that the extension has been applied and the period when they can expect to meet their line manager to discuss the request.

8. **Withdrawal of Flexible Working Application**

Set out below are the 3 reasons why an application may be treated as withdrawn:

i) **The employee decides to withdraw the application**

An employee who withdraws their application will not be eligible to make another application under the formal statutory procedure for 12 months from the date their application was made. Where the employee decides to withdraw their application, they should notify their line manager as soon as possible and in writing. If the line manager is informed verbally by the employee that they are withdrawing their application, the employee will be asked to confirm this in writing within 14 days. If subsequently, no written confirmation is received from the employee, the line manager will, within 28 days of the employee’s verbal notification, write to them asking them to confirm in writing their intentions within 14 days. If there is still no confirmation from the employee, the line manager will confirm in writing to the employee the withdrawal of the application.

ii) **The employee fails to attend two meetings**

In cases where an employee misses two meetings without reasonable cause, the line manager may treat the application as withdrawn. It is therefore in the employee’s best interests to inform the company as soon
as possible if and why they are not able to attend a meeting. If an employee simply misses a meeting and does not explain why, then they can expect their absence to be treated less sympathetically. The line manager will warn the employee that they risk their application being treated as withdrawn if they miss another meeting without reasonable cause when rearranging the meeting.

iii) The employee unreasonably refuses to provide the employer with the required information

There may be occasions where the line manager is willing to accept a request for flexible working, but requires the employee to provide certain information before they can do so. If an employee unreasonably refuses to provide the employer with the information, then the employer can treat the application as withdrawn.

9. Role of Trade Union Representatives

Line managers should inform local TU representatives as soon as an application is lodged to allow input from the representative.

If the line manager approves an application, the local TU representatives should be consulted from the outset in the make up of any duty/shift pattern.

10. Related Policies

Time off for Dependents Policy
Career Break Policy
Job Sharing Policy

11. Previous Versions of Policy

Original issue date: April 2003
Revised: July 2010
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