

TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

27 June 2011

Report of the Central Services Director

Part 1- Public

Matters for Recommendation to Council

1 UPDATE OF THE FLEXIBLE WORKING AND TIME OFF POLICY

This report makes a series of recommendations for updating the Council's current Flexible Working and Time Off Policy. The proposed updated policy, to be re-named The Flexible Working, Homeworking, and Time Off Policy is presented in Appendix 1 of this report. In order to assist Members understanding of the additions to the existing policy, they have been highlighted in bold italics in the updated policy in Appendix 1.

1.1 Reasons for updating the policy

- 1.1.1 The current policy needs to be updated to incorporate recent changes in employment law, in particular increased provision for paternity leave, and the right of employees to request time off for training or study, as well as provisions in the Equality Act 2010 for the harmonisation of rights according to an individual's "protected characteristics" such as age, disability, gender, race etc. Consequently amendments have been made to sections 4:2, 8:2, 8:3:1, 8:4, 10:2, and 18 of the updated policy in Appendix 1.
- 1.1.2 In the light of the increasing complexity of legislation surrounding requests for flexible working, and the need to ensure consistency across the Council, it is recommended that in future, all requests for flexible working will be considered according to the procedure set out in the Annex to the updated policy in Appendix 1.
- 1.1.3 Prior to the updating of the Flexible Working and Time Off Policy, the Council had a separate Homeworking Policy. However, in the light of the statutory duty to consider "reasonable adjustments" to working practices for staff who become disabled, it seemed timely to recommend to Members the incorporation of the Homeworking Policy into the Flexible Working and Time Off Policy as set out in Section 6 of the updated policy in Appendix 1.
- 1.1.4 Furthermore, with the increased IT facilities that enable staff to work from home during events such as adverse weather conditions, it was also felt appropriate to

recommend the addition of an addendum to the Homeworking Section 6 to clarify how such working would be viewed by the Council. It is thus recommended that Members support the view set out in this addendum that it will not be necessary in “ad hoc” homeworking to undertake the full range of checks etc that are required for “Contractual Homeworkers”.

1.2 Legal Implications

- 1.2.1 The amendments made to sections 4:2, 8:2, 8:3:1, 8:4, 10:2, and 18 of the updated policy in Appendix 1 are in compliance with The Equality Act 2010, The Study and Training Regulations 2010, and the Additional Paternity Leave Regulations 2011.

1.3 Financial and Value for Money Considerations

- 1.3.1 As payments awarded to those who are deemed by employment tribunals to have been discriminated against can be considerable, it is incumbent upon the Council to minimise its exposure to such risk.

1.4 Risk Assessment

- 1.4.1 The recommended procedure for considering all requests for time off, flexible working etc, set out in the Annex in Appendix 1 mirrors the existing statutory procedure for considering requests for changes to working patterns for those with caring responsibilities. The extension of the application of this procedure to all such requests (including flexible retirement), will provide an audit trail of the decisions that are made for all such requests irrespective of an individual’s “protected characteristics”.
- 1.4.2 Staff have been consulted about the recommended changes to this policy at a meeting of the Council’s Joint Employee Consultative Committee on 31 March 2011, where the amended policy was given widespread support.

1.5 Equality Impact Assessment

- 1.5.1 The outcomes of a full Equality Impact Assessment are documented in Appendix 2 of this report.

1.6 Recommendations

- 1.6.1 That the policy is updated to reflect recent changes in legislation.
- 1.6.2 That the Council adopts the Requesting Flexible Working Procedure set out in the Annex to the updated policy in Appendix 1.
- 1.6.3 That the Homeworking Policy, including the addendum concerning “ad hoc” homeworking, is incorporated into the updated policy.

Background papers:

contact: Delia Gordon

Nil

Julie Beilby
Central Services Director

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	Yes	Please see the full Equality Impact Assessment attached as Appendix 2.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	“
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		“

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.