



---

**REPORT TO: MORAY COUNCIL ON 28 SEPTEMBER 2022**

**SUBJECT: FLEXIBLE WORKING POLICY REVIEW**

**BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND ORGANISATIONAL DEVELOPMENT)**

**1. REASON FOR REPORT**

- 1.1 To ask that Council consider and approve the updated flexible working policy for implementation to Local Government Employees, Craft Operatives and Chief Officers and note that this is a key enabler for other projects to realise their potential benefits.
- 1.2 This report is submitted to Council in terms of Section III (B) (24) of the Council's Scheme of Administration relating to the formulation, implementation and review of policy and practices for employees, other than teachers.

**2. RECOMMENDATION**

**2.1 It is recommended that Council:**

- i) consider and approve the revised flexible working policy for implementation; and**
- ii) note that this is a key enabling element in the progress of organisational change with regard to the stated implementation of the Office Review under a combined project of "Smarter Working"**

**3. BACKGROUND**

- 3.1 The Council currently has a flexible working policy in place for Local Government Employees, Craft Operatives and Chief Officers supported by a range of procedures and guidance. This was under review pre-pandemic as part of the transformation work in the Improvement and Modernisation Programme. The purpose was to have an approach that supported the implementation of change across the organisation including a focus on policy, technology and property issues.
- 3.2 Considerable work was undertaken with a project plan, timescales and draft report completed following consultation with a range of service and operational managers and employees.

- 3.3 When the pandemic hit, the organisation was catapulted into responding to ensuring that arrangements were put in place to enable mainly office based staff to be able to work from home rather than the office. This included a focus on technology primarily but also elements of policy and guidance that were required on an interim basis to support the move to working from home.
- 3.4 Now that the Council is in the recovery and renewal stages of response, there continues to be a requirement to review the Council's approach to flexible working as there was pre-pandemic. However, the Council now needs to take stock of the learning and opportunities arising from the changes in ways of working that were required, particularly around working from home.
- 3.5 This presents the Council with an opportunity to take a strategic approach to achieve a number of key organisational objectives with an enabling employment policy that provides a firm foundation for efficient delivery of services with a focus on excellent customer service. Developing the organisational culture, skills and environment will enhance both the organisation's and individual employees' capacity to embrace and embed flexible and hybrid working as a cultural norm and to achieve improved organisational resilience, motivation, morale and wellbeing. It is an opportunity for working collaboratively to benefit the organisation and individuals through enabling ways to maintain the positive aspects of working at home, providing the right functional spaces required by individuals and teams to deliver services whilst reducing the collective carbon footprint and working towards the target of being carbon neutral by 2030. Providing seamless access to the workplace that meets customer, staff, service and organisational needs will support the Council as an exemplar for providing effective and efficient modern office and functional spaces, delivering quality services and helping reduce the Council's carbon footprint.
- 3.6 Strategic aims and objectives have been developed and the joint project with Property Services and HR, ICT and Organisational Development currently has a working title of "Smarter Working". Change to organisational culture depends on people changing their attitudes, behaviours and thinking and is known to take time. The initial strategic aims and objectives therefore reflect the current longer term aspiration for the Council and scope for review based on learning as the overall project progresses will be built in allowing for flex and adjustment as deemed necessary.

The "Smarter Working" project will combine the new approach to ways of working with the office accommodation review and the requirement to reduce the Council's carbon footprint.

The aims of the project are to:-

- Develop the organisational culture, skills and environment to embrace and embed flexible and hybrid working
- Improve organisational resilience
- Improve employee motivation, morale and wellbeing

- Attract and retain quality, creative, motivated and productive staff
- Provide seamless access to sustainable, modern working environments which support delivery of high quality, efficient and effective services
- Reduce the environmental footprint of our working practices
- Increase efficiency and effectiveness of utilisation of functional spaces within Moray Council office accommodation, reducing the cost of running the council by better use of assets

3.7 To progress these strategic aims, a Project Board has been established to oversee delivery. The project will adopt a staged approach to the implementation of the hybrid ways of working which are dependent on the revised flexible working policy with scope for review after each phase based on learning as the overall project progresses.

3.8 The revised Flexible Working Policy is attached as **Appendix 1** and background papers in the form of guidance, toolkit, checklists support the implementation and roll out of the revised policy and can be found as additional meeting documents on the meeting page on CMIS.

#### **4. HYBRID WORKING FOR OFFICE-BASED STAFF**

4.1 With the lifting of restrictions and a return to workplaces possible, the organisation needs to consider the longer term requirements in terms of ways of working. The main drivers are no longer based on public health advice and the risks of contracting COVID-19 but are more focused on supporting transformation through organisational change, including organisational development requirements, property requirements, climate change responsibilities and continuous improvement in efficiency and effectiveness of high quality, customer focused service delivery.

4.2 The organisation can capitalise on the experience of working from home, learning the lessons from managers and employees' perspectives and develop a model of hybrid working which rather than setting hard and fast mandates, offers flexibility within guidelines.

4.3 The key benefits of hybrid working can be realised by combining location flexibility with time flexibility and this has been taken account of in the guidance that has been developed. Results from two staff surveys have indicated respectively that over 80% of employees whose jobs suit hybrid working would like to retain a combination of home and office working or prefer to remain at home on a regular basis and an increasing number of respondents (39% to 44%) felt working from home was continuing to have a positive impact on their mental health.

4.4 Amended Workstyles – the workstyles that were adopted when the current flexible working policy was agreed needed to be reviewed to reflect current and future requirements and the ways of working that have been in place during the pandemic, summarised in Table 1.

TABLE 1

Fixed	There will still be a need for a small number of “Fixed” workers with a requirement to be in a particular workplace in order to carry out their remit, whether this is a fixed desk space in an office or a fixed workplace in terms of front line service delivery.
Hybrid	<p>Rather than having a “Flexible” worker category, it is suggested that a “Hybrid” categorisation is more reflective of what is required going forward and will apply to the majority of office based staff.</p> <p>This would include those who require to spend part of their time in an office or other workplace and part of their time at home and those who do not need a particular base as they are operational in the field but who may need to touch down in an office or other workplace or at home. So there is a range of types of hybrid worker, e.g. those who will work from home on fixed days and work at Council premises on other fixed days; those who will work between Council premises and home depending on service delivery needs and line managers approval and those who are working on a more mobile basis with their base at home and who travel to different premises or those of their customers.</p>
Home	A “Home” worker category is required to include those that are able to fulfil the remit of their role wholly from home, with limited requirements to attend the office or other workplace (e.g. attendance for team meetings, collaborative work as required but not on a regular weekly basis).

4.5 Standards - given the variety of types of services and range of job roles across the organisation, one size will not fit all and it is important to be able to support many flexible working arrangements that result in more efficient and effective service delivery. However, having said that, from an organisational perspective, there is a need to set some standards in order to inform property, technology and equipment requirements:

- (a) Property/Space requirements – a general rule of thumb would be based on an initial minimum standard of 50% desk allowance for teams. This has been calculated based on the previous ratio of 70% and physical observation of the current occupancy rates within the HQ campus which demonstrated capacity for further reduction. It would be possible to be more prescriptive per work style, however it is considered that the wide variation of operational service delivery requirements across the organisation would be best managed using the 50% ratio.
- (b) Technology and Equipment requirements – suitable technology and equipment will be provided as appropriate to the workstyle enabling the performance of the full range of duties and responsibilities of the post. The baseline of technical equipment for flexible workers is a laptop, keyboard and mouse with headphones available if required. Each desk

for a flexible worker is equipped with a docking station, monitor and those working flexibly are able to request a monitor for their home work station.

- 4.6 Support – as well as revising the flexible working policy, the flexible working toolkit has been revised and hybrid working guidance developed. Training for managers and employees on a range of elements is being developed e.g. outcome based performance management, hybrid meetings, use of technology.
- 4.7 Contractual Issues – the changes to ways of working have raised questions around whether or not contractual changes are required when considering making these changes a permanent feature going forward, rather than an interim solution to a particular issue when responding to the pandemic situation.
- (a) Administrative/Work Base - this is specifically in relation to the requirement to state a contractual location (i.e. the places or addresses where the employee or worker will work) within employment written statement of particulars. This does not necessarily change as a result of hybrid working, although employees who work permanently from home normally have their home address as their workplace. HMRC guidance for hybrid workers who attend the office is that the office remains their permanent workplace and therefore their administrative base.
- (b) Implications for Travel Claims – place of work is an important factor in mileage claims. It is clear that for a 'Fixed' worker, the administrative base for any relevant claims will be as stated in the written statement of particulars which may state a particular office base or may refer to the town within which the office base is. It is also clear that for a 'Home' worker, the administrative base for any relevant claims will be as stated in the written statement of particulars which should state the home address of the employee. Any travel required to other locations required in order to fulfil the functions of the job role would be calculated from this base, with the exception of the agreed travel required to attend the office, as this is part of the overall agreement and expectations with regard to home working. For 'Hybrid' workers the existing flexible working policy has been amended in line with HMRC guidance by linking the administrative base to the agreed arrangements for hybrid working. This means hybrid workers are reimbursed for costs arising from essential business travel that is greater than their normal office commute distance.
- 4.8 It is proposed that the Council implement hybrid working arrangements via the Flexible Working Policy agreed on a formal basis through a collective agreement with the recognised negotiating Trades Unions, with the particular arrangements for individuals being agreed between employee and manager (informally); the need to change employment contracts would then be based on whether or not there are formal requests for flexible working which would only be needed where there is not an agreement between employee and managers as to what is possible. The informal arrangements agreed between employee and manager could be written down but would not form part of the written statement of particulars.

- 4.9 This approach ensures the formal adoption of a flexible working policy that references hybrid working arrangements which are incorporated into contracts of employment, yet provides the flexibility for services and employees to agree mutually acceptable working patterns without the need to generate updated written statements of particulars and which in many cases will simply be confirming the arrangements that have been in place for the last two and a half years. Contractual rights over time (through custom and practice) in relation to hybrid working has yet to be determined in terms of case law and this will be monitored for any implications that may require further consideration of this approach.
- 4.10 Communication and Engagement – implementation of the flexible working policy entails consolidation of a significant change to ways of working across the organisation with regards to adopting hybrid working as a permanent feature and expectation for a large number of people. While managers and employees responded well to the enforced remote working that was thrust upon them due to government and public health requirements, moving to hybrid working and the mix of home and office working that entails, is another shift in terms of how people manage the mix of what was previously two distinct approaches. Formal consultation with the recognised Trades Unions is noted in section 5(i) below, as is the engagement undertaken to date with service managers. Further communication and engagement with managers and staff will form a key part of the "Smarter Working" project.
- 4.11 Behaviour and culture change can be challenging to achieve long term and the chances of achieving this are maximised if an organisational development approach is adopted. Communication and engagement are fundamental to this approach and there will be specific reference to this within the detailed business case which will be undertaken jointly with Property Services and in parallel to the implementation of the office review with future joint reporting under the banner of "Smarter Working".
- 4.12 Telephony – an intrinsic part of the hybrid working approach is ensuring that people know how to contact officers, regardless of where they happen to be working on any given day. A review of the telephony infrastructure will be part of the work required going forward.

## 5. SUMMARY OF IMPLICATIONS

### (a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

This project forms part of the Improvement and Modernisation Programme (IMP) that supports the Council priority of creating a sustainable council providing valued services to the community and developing and realigning the workforce to meet future requirements.

### (b) **Policy and Legal**

The Flexible Working Policy has been updated to include reference to hybrid working arrangements and will be formally agreed with the recognised Trades Unions. The policy is designed to facilitate managers and employees within services agreeing ways and patterns of working that are mutually acceptable on an informal basis, whilst

employees can still revert to a formal flexible working request when required. Should there be a situation where the employee and manager cannot agree working arrangements, they should refer to Human Resources for advice as imposing a change to informal arrangements related to terms and conditions of employment could risk Employment Tribunal claims of breach of trust and confidence and/or discrimination. The case law on hybrid working is still developing and this will be monitored for decisions that may have an implication for the Council's approach.

**(c) Financial implications**

The financial implications from moving to hybrid working as a substantive arrangement are not yet entirely clear. There are potential financial implications arising from ensuring the home work environment for hybrid and home workers is safe and fit for purpose. Following assessment and discussion with line managers, there may be residual requirements for equipment and furniture and this has will be met by the office furniture budget in the first instance with further costs being considered through either a capital budget monitoring report or a report to the Asset Management Working Group depending on the scale of spend sought.

A key aim of the "Smarter Working" project is to rationalise the office estate which is anticipated to generate savings. This is referred to in more detail in the Office Review Update report which is on the agenda for this Committee.

**(d) Risk Implications**

There are a number of risks associated with the implementation of the "Smarter Working" project:

Cost of living increases – the increasing costs of living may impact on the number of employees who choose to work more often from the office in order to reduce their heating overheads albeit this would have to be balanced against the costs of their daily commute. This is likely to have different implications depending on individual circumstances and to be a personal decision regarding the competing costs and savings of heating their home versus travelling in to work. Managers will be required to have discussions with their teams to identify the different requirements and balance those against the business needs and available space in the office as part of the process of preparing for consolidating the current network of arrangements that have been in place for approximately 2 ½ years and employees will be encouraged to make choices as part of that work.

Informal transfer of knowledge and experience with hybrid working requires to be managed more explicitly as the opportunities for implicit informal learning from observing and being near colleagues is reduced.

Consistent, fair and equal opportunity for all employees is fundamental to fair work practices and managers will be trained and supported to ensure that they are aware of the potential pitfalls arising from inconsistencies in this regard.

The Council demographic is that approximately 75% of the workforce are in the lower grades of the organisational structure which raises potential socio-economic risks. These are noted below.

**(e) Staffing Implications**

The impact of the COVID-19 pandemic has had far reaching consequences on the workforce and ways of working. While the Council is aiming to consolidate gains that have been made during the pandemic in terms of increased flexible and hybrid working, there is a risk that some staff will be unable or unwilling to accommodate working from home as a permanent feature of their employment. While every attempt will be made to lay strong foundations for this permanent change in approach by the Council in terms of preparation of buildings, infrastructure, training and development for managers and staff, survey results indicate that there is likely to be a proportion of staff who will want or need to work fully from an office location, and a similar number who will want to work fully from home. Managers will be supported to engage positively with all staff to work through issues and considerations before final decisions are made within services.

Staffing implications arising from the Workplace of the Future project will also entail consultation and engagement with the recognised Trades Unions as per agreed Council policy and protocols as well as discussion and agreement between managers and employees as described in section 4.10 of the report.

**(f) Property**

As set out in the report and the Office Review report.

**(g) Equalities/Socio Economic Impact**

While the approach to flexible working within the Flexible Working Policy has been expanded to include consideration of flexibilities for services that might previously not have naturally provided much scope due to the nature and demands of the service, there are potential equalities and socio-economic impacts arising from increased volumes of hybrid working which should be considered. An Equality Impact Assessment is part of the Outline Business Case for the Workplace of the Future project and an updated Equality Impact Assessment for Flexible Working will be undertaken as part of the implementation process in order that any undue impact is identified and mitigated appropriately.

**(h) Climate Change and Biodiversity Impacts**

The proposals for the Flexible Working Policy in this report help the climate change agenda as an enabler for the office rationalisation project leading to reduced carbon footprint for the Council. This is likely however to be offset to a degree by an increased number of people working from home. A standard figure calculating average carbon footprint for homeworking has been sourced by the Climate Change team which will help inform the overall impact of the “Smarter Working” project.



**(i) Consultations**

Consultation has been undertaken with recognised Trades Unions representatives through the agreed mechanism of the Policy Forum when the initial high level overview of the Flexible Working Policy was completed in January 2022. Whilst generally supportive of the proposed approach and changes suggested, further detail around the supporting documentation was being sought and the view was that the Policy could not be progressed without the details that would sit behind that in terms of supporting documentation, e.g. Flexible Working Toolkit and Hybrid Working Guidance. Further consultation with the recognised Trades Unions has taken place with feedback constituting mostly queries and clarifications on the implementation of the policy. However, advice is being sought from national TU colleagues regarding travel claims with no response received on this point as yet. The Council’s approach is not out of step with a variety of approaches being taken across other Local Authorities in Scotland.

Once the proposals for change outlined in the various documents have been approved, further discussions will be required with managers and TU representatives. This will be through existing fora.

Following on from a discussion at the Personnel Forum (senior manager group) in November 2021, a workshop was held with Personnel Forum managers (31 March 2022) which has further informed the work on the Policy and the development of the Hybrid Working Guidance. In addition, the draft documents have been subject to consultation with officer groups.

**6. CONCLUSION**

**6.1 This report provides an update on the review of the Flexible Working Policy and the joint project with Property Services to deliver the “Smarter Working” project.**

Author of Report:	Frances Garrow, Head of HR, ICT & OD
Background Papers:	Flexible Working Toolkit Hybrid Working Guidance Checklist for Hybrid Working Tools for Remote Working Display Screen Equipment (DSE) Checklist Your Health and Working From Home Working Arrangements Information Flexible Working Application Form Windows 10 – Anytime Connect User Guide
Ref:	SPMAN-1656699058-83