



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

FLEXIBLE WORKING HOURS POLICY AND PROCEDURE

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1. Policy Statement

1.1 This document provides an overview of the FWH Policy for managers and employees. The policy cannot anticipate all potential situations and where further guidance is required this should be sought from HR.

1.2 The FWH scheme allows employees some scope to vary their hours of attendance to better suit their personal circumstances. This flexibility also allows the Department to provide a more comprehensive and responsive service to our customers. The operation of FWH is subject to the terms of the policy and the business needs of the Department.

1.3 Employees participating in the FWH scheme work for the same total number of hours as colleagues on the equivalent standardised working pattern. However they have the ability to vary their hours of arrival and departure, are able to accrue a credit of hours and, subject to relevant approval, take this as leave.

The scheme does not affect employee pay, terms or conditions.

2. Principles of FWH

2.1 The FWH scheme is designed to support the needs of COPFS employees, while ensuring that the Department can meet the operational demands placed on it and the requirements of our customers. Employee attendance must meet and enable delivery of the business requirements of the Department and should not simply reflect personal preference; managers will try to accommodate FWH requests but local business needs will take priority.

2.2 Participation in the scheme is on a voluntary basis and employees may work on a standardised hours basis if they prefer.

2.3 There is an expectation that all COPFS employees will clock in and out each day, irrespective of whether they participate in the FWH scheme or not, unless they have received authorisation from their line manager not to do so.

3. Employee Responsibilities

3.1 While managers are responsible for the delivery and administration of the FWH scheme, employees must ensure that they are fully familiar with the terms of the policy and operate within it.

In particular individuals should:-

- Appreciate that their attendance must support the business needs of COPFS and accommodate reasonable requests to provide operational cover by line managers;
- Ensure that they log their times accurately and efficiently through the FWH scheme;
- Pass updates and amendments to line managers timeously for approval. In such circumstances it is expected that employees will normally submit flexi amendments to their line manager the next working day, but certainly within the working week, for their consideration;
- Ensure that flexi leave is pre-approved by their line manager;
- Ensure that approved leave is recorded on the flexi system;
- Not misuse or abuse the system and be aware of the consequences of doing so.

4. Line Management Responsibilities

4.1 Managers are responsible for ensuring that the FWH policy is fairly and transparently applied and in particular to ensure that it is managed appropriately to support employee and business needs.

In particular managers should ensure that:-

- There is sufficient employee cover during normal office opening hours;
- They and their employees fully comply with the FWH policy and that this is applied fairly;
- Adjustments and requests for leave are considered timeously. In such circumstances it is expected that managers will normally review and consider flexi adjustments and requests the next working day, but certainly within the working week, after they have been submitted;
- Regular checks of employee FWH records are made to ensure accuracy;
- Misuse and abuse of the system is investigated and dealt with appropriately;
- Appropriate information with regards to flexi balance is passed to HR when an employee leaves the Department;
- Their employees manage their time effectively and, where excessive hours are regularly being worked, they will work with individual employees to explore and address any underlying issues;
- Advice is sought from HR or their Business Manager/Head of Division if in doubt about the course of action to take if any flexi abuse is suspected;
- When an employee is transferring to another team/Department, all flexi records, including annual leave and public holiday entitlements, are fully up to date, unless there are exceptional reasons why this would not be possible.

5. The FWH Policy

5.1 Full Time Equivalent Employees

5.1.1 The working day is:

Standard working day	7 hrs 24 mins
Standard working week	37 hours
Accounting period	4 weeks (148 hours)
Morning Bandwidth	0700 to 1000
Morning Core time	1000 to 1200
Lunch Bandwidth	1200 to 1400
Afternoon Core time	1400 to 1530
Afternoon Bandwidth	1530 to 1900

5.1.2 Lunchtime bandwidth may vary by local agreement. The earliest morning start time and latest afternoon finish time that can be worked are subject to local building opening and closing times, which may vary.

5.1.3 Line managers have discretion to extend the lunch bandwidth to 14:30 where this is appropriate for local operational needs.

5.1.4 The term "Bandwidth" refers to the period within which employees can vary their attendance. "Core times" refer to the periods where it is mandatory for employees to be in attendance; with the exception of authorised absences.

5.1.5 Hours worked out with the flexi bandwidths i.e. 7am to 7pm will not normally be credited except with the approval of the line manager.

5.1.6 Employees must not work more than six hours without a break of at least 30 continuous minutes. This break should not be taken at the beginning or end of the six-hour period. Young workers under the age of 18 must take a break of 30 minutes when the daily working time is more than four hours thirty minutes. Employees should be clocked out of the FWH recording system whilst taking their lunch break.

5.1.7 Where employees need exceptions to locally agreed business hours, this must be agreed in advance with their line manager.

5.2 Alternative Working Patterns

5.2.1 Employees operating under alternative working patterns may also participate in the FWH scheme. The rules and principles applicable to full time employees apply to employees on alternative working patterns, unless otherwise stated.

5.2.2 The hours worked and carry over of credit or deficit for employees on alternative working patterns is adjusted on a pro rata basis dependent on contracted hours. The maximum credit entitlement can be worked out by using the calculations outlined in section 7 below.

6. The Accounting Period

6.1 The balance of time worked by an individual employee is assessed during the course of an "Accounting Period". For all employees, regardless of working pattern, this accounting period is a four weekly cycle, starting on a Monday and finishing on a Friday. At the end of the accounting period the total number of hours actually worked by the employee is compared against the total number of hours that would apply under net conditioned hours; this is 148 hours for full time employees. This determines if the employee has acquired a flexi credit or deficit for that accounting period.

7. Flexi Credits and Deficits

7.1 Full-time Equivalent Employees

7.1.1 A credit or deficit of time may be built up however this should not normally exceed the maximum levels at any time. The maximum credit, or deficit, that may apply at the end of an accounting period is listed below. Employees should ensure that they do not build up excessive balances or deficits and where problems arise must discuss these with their line manager.

- Maximum Credit Carry Forward - 22:12 hours (3 days)
- Maximum Deficit Carry Forward - 11:06 hours (1.5 days)

7.1.2 Where a time credit exceeds 22:12 hours at the end of any flexi accounting period the excess time will normally be deducted. In exceptional circumstances; for example due to a period of sickness where it has not been possible to reduce the balance, a line manager may exercise discretion in allowing an excessive balance to be carried into the next accounting period. In such circumstances, the employee must agree, in discussion with their line manager, to a plan to reduce their excess flexi credit within the following accounting period.

7.1.3 Where a deficit exceeds the maximum carry forward; the full deficit will be carried into the next accounting period. In such instances the line manager will consider what action is appropriate based on the circumstances. For example a one off, or occasional infringement, will not necessitate disciplinary action but will result in an agreement with the employee involved to reduce the deficit within a prescribed period of time. Repetition will however lead to the matter being treated as a disciplinary offence.

7.1.4 Line Managers may agree to a reduction in an employee's annual leave entitlement to reduce the FWH debit. In these circumstances, the reduction must not take the employee below their entitlement to statutory annual leave. The statutory entitlement is 28 days, inclusive of public holidays for a full time employee (pro-rated for employees on alternative working patterns).

7.2 Alternative Working Patterns

7.2.1 Flexi Credit: The maximum flexi credit that full-time employees can accrue per accounting period is 22:12 hours (3 days). Employees on alternative working patterns can work out their entitlement using the following calculation:

Number of hours worked per week / 5 and then multiplied by 3

= maximum number of hours flexi credit

e.g. If an employee works 30 hours, the maximum flexi credit is:-

$$30 / 5 \times 3 = 18 \text{ hours.}$$

7.2.2 Flexi Deficit: The maximum flexi deficit that full-time employees can accrue per accounting period is 11:06 hours (1.5 days). Employees on alternative working patterns can work out their entitlement using the following calculation:

Number of hours worked per week / 5 and then multiplied by 1.5

= maximum number of hours flexi deficit

e.g. If an employee works 30 hours the maximum flexi deficit is:-

$$30 / 5 \times 1.5 = 9 \text{ hours.}$$

8. FWH Leave

8.1 Flexi leave may be requested from a line manager providing this does not result in the flexi balance exceeding the maximum deficit, as at the end of the accounting period. For full time employees, this is 11 hours and 6 minutes. For employees on alternative working patterns, their permitted deficit can be worked out using the calculation at 7.6 above. Normally a leave request should be made at least two days in advance to the relevant line manager.

8.2 Although employees can build up a flexi credit equivalent to 3 days by the end of the accounting period, a maximum of 2 working days may be taken in any one accounting period before or after the equivalent credit has been accumulated. For full time employees this is 14:48 hours. For employees on alternative working patterns, their permitted flexi leave, within the accounting period, can be worked out using the following calculation:

Number of hours worked per week / 5 and then multiplied by 2

= maximum number of hours leave that can be taken in the accounting period

e.g. if an employee works 30 hours the maximum leave allowance is:-

$$30 / 5 \times 2 = 12 \text{ hours.}$$

8.3 Where those on alternative working patterns would not have enough flexi hours to take 2 working days off (e.g. those working compressed hours), approval may be sought from their line manager to increase the amount of flexi leave taken, such that this is equivalent to 2 working days.

8.4 In all cases, leave must be pre-authorised by the Line Manager, before it is taken.

9. Annual Leave

9.1 A full day's absence for a full-time employee attracts a credit of 7 hours 24 minutes; or 3 hours 42 minutes for a half day. For employees working an alternative working pattern, their leave entitlement will be calculated in hours and the appropriate number of hours deducted from their annual leave balance for the amount of leave taken.

10. Limitations of Policy

10.1 Although employees on FWH have a degree of freedom in their attendance they must comply with the reasonable requests of line managers to ensure that there is sufficient coverage during normal office hours.

11. Casual Workers– Fixed Term Appointments

11.1 Casual workers and those on fixed term appointments may participate in the FWH scheme where this meets with business requirements, unless there are good business reasons why they should not be able to participate in the scheme.

12. Agency Workers

12.1 Workers recruited through Agencies may not participate in the FWH scheme until they have accrued 12 weeks' qualifying service in an assignment with COPFS. In accordance with section 2.3 above, it is expected that agency workers will clock in and out each day, during the first 12 weeks of their assignment, however, they may not take FWH leave until after they have accrued 12 weeks' qualifying service.

13. Sick Absence

13.1 If a full-time employee is sick for a full day, they will be credited with 7 hours 24 minutes, or for employees working an alternative working pattern will be credited the amount equivalent to the relevant daily contracted hours.

13.2 If an employee becomes ill having been at work for at least 30 minutes and has to go home before completing half their contracted hours for that day, then a half-day sickness absence should be recorded. In such circumstances, the employee's hours will be made up to a total of 7 hours 24 minutes or the relevant daily contracted hours for that employee.

13.3 If an employee becomes ill having completed more than half their contracted hours for that day, then no sickness absence should be formally recorded. The remainder of the employee's working day should, however, be reported as sickness absence on the flexi system; in normal circumstances, such absence will not count towards an individual's sickness absence triggers. In such circumstances, the employee's hours will be made up to a total of 7 hours 24 minutes or the relevant daily contracted hours for that employee.

14. Medical / Dental Appointments

14.1 Employees should routinely arrange appointments outside of normal working hours. However when such an absence is required and authorised a credit equal to the number of hours of absence will be made up to a maximum of two hours. Under extenuating circumstances the relevant line manager may approve a credit for time in excess of the two hour maximum. This credit can only be given up to the maximum of 7 hours and 24 minutes (pro-rated for employees on alternative working patterns) e.g. employees can only receive credit up to their normal contracted working hours.

Please refer to the COPFS Attendance Management Policy for further information on time off for medical and dental appointments and how this should be recorded by employees using the FWH scheme.

15. Official Duty Absence from Office

15.1 This may apply when an employee attends a meeting or event at another office. A credit for the total time worked will be given; which may also include time spent travelling minus the normal time taken to travel from home to the office. For the purposes of this Policy, it is noted that a flexi credit should be given for all additional travel time needed, irrespective of whether this takes place during core working hours or not. Payment for travel time cannot be claimed if this has been claimed as a flexi credit.

16. Employee Training

16.1 Where full-time employees are on formal training events which are scheduled to last a full day, a 7 hours 24 minutes credit will apply; with a 3 hours 42 minutes credit applied for half day events (pro-rated for employees on alternative working patterns). Where the training day lasts longer than a normal working day the appropriate credit will be given. This might be due to the training itself, travel time or essential work completed on the same day. Additional credits will not however be made available for those attending residential training events; although travel time may apply under relevant circumstances.

17. Detached Duty

17.1 In such circumstances the employee will adopt the FWH scheme as it applies in the office that they are posted to for detached duty.

18. Overtime

18.1 Overtime working falls out with the FWH scheme; employees cannot claim both FWH and overtime for the same period of work.

18.2 Please refer to the COPFS Overtime Policy for further information on overtime and its impact on the FWH scheme.

19. Leaving the Department

19.1 On leaving the Department the employee and their line manager will confirm the final flexi balance. A credit balance of up to 22 hours 12 minutes (pro-rated for those on alternative working patterns) will either be taken as additional leave prior to departure or reflected in final pay. Where a deficit exists at the date of departure this will either be offset against any outstanding annual leave, or via a corresponding reduction to final pay or recovered as an overpayment.

20. Misuse of the FWH Scheme

20.1 The occasional or minor infringement of the FWH rules will not normally constitute a disciplinary offence. Where the infringement is significant or regular the line manager must consider what, if any, action is required. Depending on the circumstances and severity this may include, counselling the employee involved, temporary or indefinite suspension from the FWH scheme, and/or disciplinary action.

In instances where indefinite suspension from the FWH scheme or disciplinary action is being considered this should first be discussed with the employee's Countersigning Officer and HR.

20.2 Examples of infringements include:-

A. Regular, bandwidth or core time infringements

- If an employee fails to comply with bandwidth or core time, as stated in the FWH Policy, within a 4 week reporting period and no acceptable mitigation is offered – the respective line manager will provide a verbal warning requesting full compliance with the FWH Policy.
- If an employee fails to adhere to bandwidth or core time standards within the subsequent 4 week reporting period and no acceptable mitigation is offered - a written warning will be provided by the line manager.

- If compliance is not achieved thereafter this will constitute misconduct and the matter will be taken forward under the COPFS Disciplinary Policy and Procedure.

B. Excess deficit

- If an employee carries an excess deficit at the end of a reporting period, as stated in the FWH Policy, the respective line manager will provide a verbal warning requesting that the employee works to ensure the deficit is made up within 4 weeks.
- If the deficit is not reduced below the acceptable limit within 4 weeks and no reasonable mitigation is offered, this will constitute misconduct and the matter will be taken forward under the COPFS Disciplinary Policy and Procedure

C. Regular failure to use FWH terminal or desktop

- If an employee who has access to a FWH terminal or desktop in an office fails to clock in/out on 5 days within any 4 week reporting period, resulting in excessive manual adjustment – the respective line manager will provide a verbal warning requesting full compliance with the FWH Policy. *We recognise that some employees will be unable to use terminals/desktops at lunchtime due to business reasons (e.g: court commitments, meetings).*
- If the employee continues to fail to use FWH terminal/desktop a further 5 days in the following 3 reporting periods and no acceptable mitigation is offered – a written warning will be provided by the line manager.
- If compliance is not achieved thereafter, this will constitute misconduct and the matter will be taken forward under the COPFS Disciplinary Policy and Procedure.

20.3 Examples of potentially more serious abuse include:-

- Fraudulently clocking in or out for colleagues;
- Falsification of flexi records including the false credit of time, inappropriate adjustment of hours worked, or false reduction of a flexi deficit.

In certain instances serious abuse may constitute gross misconduct under the disciplinary code and may lead to dismissal.

21. Further Guidance

21.1 If you can't find the guidance you require please contact HR for further support. In addition, managers and employees can contact the Employee Assistance Programme on 0800 032 9849 or their Trade Union for support and advice.

22. Monitoring and Review

22.1 Application of this Policy will be monitored by the Director of HR.

22.2 This Policy will be subject to review in the event of any changes in supporting legislation, statutory requirements or COPFS practice. In the absence of such a change, this Policy will be subject to review after a period of 3 years.