

APPENDIX A

Time for Training Procedure

From 6 April 2010 employees have a new right to request time to train.

Employees' requests can be to undertake accredited programmes leading to a qualification, or for unaccredited training to help them develop specific skills relevant to their job, workplace or business.

This does not affect the procedures we have in place to identify, agree and deliver training now. But it is an additional statutory responsibility that we need to meet when asked to do so. The procedure for making requests and dealing with them is set out below.

Key Messages

- Employees have a right to make requests for time to train
- There are set time scales for the Council to respond
- Responses have to be in writing
- There is no automatic right for the time to be paid or for the costs of the training to be met by the Council, but it can do so if it wishes
- Requests can only be refused for certain specified reasons
- Employees may appeal against any decision

Employee eligibility criteria for time to train

To make a request for time to train an individual must be an employee and have worked for us continuously for at least 26 weeks on the date they make their request. Agency and casual staff do not have the right to request time to train.

Training employees can request as part of time to train

Employees can make requests to undertake any training which they believe will improve their effectiveness and the performance of the Council.

The training they undertake can include accredited programmes - leading to the award of a recognised qualification - or shorter unaccredited training to help them develop specific skills relevant to their job, workplace or business.

Employees can request training that is delivered in whichever way they believe is most appropriate and effective. For example, they might request training which could be:

- undertaken at the workplace or elsewhere, including at the employee's home
- delivered whilst they are working or separately
- provided or supervised by the Council, a local college or training provider
- undertaken without supervision
- undertaken within or outside the UK

There is no limit on the amount of time - or the amount of study or training - that an employee can request. Employees can ask to undertake more than one piece of training in a single request for time to train, e.g. where they would like to improve their literacy and numeracy skills in addition to another piece of training.

Payment for time spent training

Employees have the right to request that we allow them time to undertake training. They do not have the right to be paid for the time spent training, but we can agree to pay for the time, reach agreement with the employee that they will work flexibly to make up the time spent training, or that they will take unpaid time off to train.

Information employees must include in a time to train request

In order for a request for time to train to be a valid request, covered by the legislation, it must be submitted in writing and contain the following information:

- a statement that the application is an 'application under section 63D Employment Rights Act 1996'
- the subject matter of the proposed training or study
- where and when the proposed training or study would take place
- who would provide or supervise it
- what qualification it would lead to (if any)
- how the employee thinks the proposed training or study would improve their effectiveness and the Council's performance
- the date of the application

- the date and method - e.g. email or letter - that the employee's last application (if any) was submitted

Employees can submit requests in any written form they choose as long as they contain the above information. The request should be sent to the Personnel Department who will co-ordinate the Council's response.

Frequency of requests

We are only required to consider one request from an employee in any twelve month period unless he or she has requested that we ignore an earlier request – see **Ignoring earlier requests**

If we intend to ignore a request because the employee has submitted more than one request in a given 12 month period, we must write to inform them within 28 days that we do not intend to consider it.

Invalid time to train requests and request withdrawals

If we consider that a request is invalid because it does not include all of the necessary information, we must notify the employee of this within 28 days, and tell them the reason why we consider that the application is invalid. This must be in writing.

The employee may then revise and resubmit their request with the error corrected. This is then regarded as a new request because the original one was not a valid one.

Withdrawal of a request by an employee

Employees may withdraw requests at any point before they have been given the decision. They can notify us orally or in writing. If we do not receive written notification from the employee that their request is withdrawn, we must confirm the withdrawal of the application to the employee in writing.

If an employee withdraws a request, it will still count as a request that we have received for the purposes of this legislation.

Ignoring earlier requests

There are three circumstances in which the employee, having submitted a further request, may ask us to ignore an earlier request submitted within the last 12 months. These are:

- where the employee notifies us that they mistakenly submitted an earlier request before 12 months elapsed and they wish to withdraw the earlier application

- where the employee did not undertake training that was agreed following a request because the training was cancelled - unless this was due to their own conduct in relation to the study or training
- where the employee failed to start training that was agreed as part of a request because of some unforeseen circumstance beyond their control

In these circumstances, we must ignore the fact that the employee submitted an earlier application, and consider their present request.

Timescales for considering time to train requests

Within 28 days of receiving a valid request we must either:

- accept the request on the basis of the information set out in the individual's written request and inform the employee of our decision in writing
- meet with the employee to discuss their request - then within 14 days of that meeting, we must inform the employee of the decision in writing

Normally, the 28 day period begins on the day the request is received. But, the timescales for holding meetings and issuing notices of decisions on applications and appeals can be extended by agreement with the individual who has made the request. Such an agreement must be recorded in writing and a copy given to the employee.

The record of agreement to extend these timescales must:

- specify what period the extension relates to
- specify the date on which the extension is to end
- be dated

There is no requirement that the Council must reduce these timescales in order to meet an urgent need e.g. the course of training starts within the 28 period. But it will make reasonable efforts to meet any time constraints that the employee has.

Requesting additional information to help you consider a request

If we receive a valid request but feel that we need additional information before we can give the request proper consideration, we can ask the employee to provide additional information.

If the employee refuses to provide the additional information needed to consider the request, we can treat their request as withdrawn. To do this, we must inform the individual in writing that we consider their request to be withdrawn.

Considering whether to accept or reject a time to train request

We may be willing to accept in full the employee's proposals for training as set out in their request.

There may also be cases where we are willing to accept the request, but think the training need can be met in a different way to the request proposal. For example, we may wish to deliver training in-house rather than using an external training provider, or there may be different courses or qualifications that would better meet the training need that the employee has highlighted.

In such cases, we must discuss the employee's request with them before reaching the final decision and confirming it, in writing, to the employee.

As well as the training method we need to consider how the costs of the training will be met. The Council does not have to pay for the training, but it can. The Personnel Department must be consulted before any agreement on training costs is made.

Requests for time to train can only be refused for one or more of the following business reasons:

- the proposed study or training would not improve the employee's effectiveness in our business
- the proposed study or training would not improve the performance of our business
- the burden of additional costs would be too great
- the proposed study or training would have a detrimental effect on our ability to meet customer demand
- we would be unable to reorganise work among existing staff
- we would be unable to recruit additional staff
- the proposed study or training would have a detrimental impact on quality
- the proposed study or training would have a detrimental impact on performance
- there would be an insufficiency of work during the periods the employee proposes to work

- there are planned structural changes during the proposed study or training period

Meeting an employee to discuss their time to train request

The employee has a statutory right to be accompanied by a work colleague of their choosing. The companion can address the meeting and confer with the employee during it, but may not answer questions independently of the employee.

If the companion is unable to attend the meeting, the employee can ask that for the meeting to be rearranged. The time the employee proposes must be convenient for all attendees, and should take place within seven days of the date originally proposed for the meeting.

If the employee more than once fails to attend a meeting to discuss a request - or a meeting to discuss an appeal - without reasonable cause, the request will be treated as withdrawn. This must be confirmed in writing.

Communicating decisions on time to train requests

Once the request has been considered the final decision must be confirmed in writing.

For decisions that agree with the request, the written confirmation must include:

- the subject of the study or training
- where and when you expect that it will take place, and over what period
- who will provide or supervise the training
- what qualification (if any) the training will lead to the award of
- how the training time will be taken - e.g. whether it will be paid, unpaid, or whether the employee will work flexibly whilst undertaking the training
- how the costs of the training will be met

If an employee requests more than one type of study or training at once we could decide to agree to part of the application and refuse another part. The decision notice must include the information above and make clear which part of the application we agree to and which part we refuse.

If we reach agreement to meet the training need in a different way, the written notification should confirm the details of that agreement, including written evidence of the employee's agreement to it. It can be helpful to draft such an agreement with the employee at the meeting where this is discussed.

If we agree to an employee's request, but foresee circumstances in which we may need to later withdraw that agreement, then we must agree with the employee the circumstances in which we will withdraw your agreement. This should be confirmed in writing as part of the written acceptance of their request. It can be helpful to draft such an agreement with the employee at the meeting where this is discussed.

If we decide that we cannot accommodate an employee's request for time to train, we must inform them of the decision in writing, setting out:

- which of the business reasons you are turning down their request for
- why the business reason, or reasons, apply in their circumstances
- the appeal procedure
- the date of the notice

Internal appeals process for time to train requests

An employee can appeal against the decision. They must make their appeal in writing within 14 days of receiving the written notice refusing their request or part of their request.

The appeal notice must be dated and must set out the employee's grounds for making the appeal.

There are no restrictions on the grounds for this appeal.

Appeals should be sent to the Personnel Department who will co-ordinate the Council's response.

Within 14 days we must either accept the appeal in full or arrange an appeal meeting. If the appeal is accepted we must write setting out the same information as is required when accepting an initial request.

Arranging an appeal meeting

Appeal meetings must be held within 14 days of the date we receive the employee's appeal notice.

Where practical, the appeal will be heard by a different senior manager to the person who considered the initial request.

The principles on the right to be accompanied, and what happens if the employee fails to attend are the same as for the initial meeting.

Notifying an employee of your decision following the appeal meeting

We must inform the employee of the outcome of their appeal in writing within 14 days of the date of the meeting.

If the request is accepted, we must write setting out the same information as is required when accepting an initial request.

If the decision is still to refuse the request, we must send the employee a dated, written notification including:

- the grounds for the decision
- why the grounds apply in their circumstances

The time limit for arranging an appeal meeting or notifying the employee of the decision on the appeal can be extended with the employee's consent.

Dealing with unresolved time to train requests

There may be occasions where an employee is not satisfied with the way that we have dealt with their application, even after an internal appeal. If that is the case we will first try to resolve any problems informally, but employees may use the grievance procedure or take cases to an Employment Tribunal if they wish.