



# **Flexible Working Policy and Procedure for Schools**

**April 2024**

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## **1. INTRODUCTION**

The purpose of this policy is to provide all staff with a clear understanding of the circumstances in which staff may apply for flexible working arrangements.

Under the Employment Rights Act 1996, flexible working requests are requests for a change to an employee's contractual terms and conditions relating to their hours, times or place of work.

Flexible working will not be automatically granted and the School will make a decision based on the circumstances, subject to the needs of the School.

The School will ensure that all employees are treated equally and consistently when applying for flexible working, in accordance with the School's Workplace Resolution Policy and Procedure for Schools, taking into account differing national and local conditions of employment.

This policy applies to teaching and support staff. It should be read in conjunction with other relevant documents (e.g. the Burgundy Book and NJC terms and conditions).

Each case will be judged on its own merits and circumstances. The granting of one case will not necessarily set a precedent for other cases.

## **2. LEGAL CONTEXT**

This policy is underpinned by the following legislation/documentation:

- Employment Rights Act 1996
- Equality Act 2010
- Flexible Working Regulations 2014 and Flexible Working (Amendment) Regulations 2023
- ACAS Code of Practice on Handling Requests for Flexible Working (2023)

## **3. ELIGIBILITY TO MAKE A FLEXIBLE WORKING REQUEST**

An employee may make a formal flexible working request from their first day of employment with the School.

An employee may make two flexible working requests in a twelve month period.

An employee may have only one live request for flexible working with the School at any one time. A request is live unless any of the following apply:

- a decision on the request has been made by the School
- the request is withdrawn
- an outcome to the request has been mutually agreed by the School and employee
- the statutory timeframe to respond to the request has expired without a decision, withdrawal or a mutually agreeable outcome.

A request continues to be live during any appeal or any extension to the procedure that the School and employee have agreed.

#### **4. MAKING A FLEXIBLE WORKING REQUEST**

The employee must comply with the following requirements:

- the flexible working request must be made in writing to the headteacher/line manager on the Flexible Working Request form (see Flexible Working Request Form - Appendix 2)
- the flexible working request must confirm the employee's reason for the request
- the flexible working request must set out the employee's proposal
- the flexible working request must specify a start date for the proposed change giving the employer reasonable time to consider the proposal and implement it. This may take up to 2 months unless an extension has been agreed
- the flexible working request must state whether a flexible working request has been made within 12 months and if so the date on which it was made
- the flexible working request must be dated.

Employees should be aware that if the School approves their flexible working request, the variation in contractual terms is a permanent one and the employee has no automatic right to change back to their previous pattern of work, unless the request seeks the variation for a specified time period only. A trial period may be agreed.

Where the flexible working request is for a specified time only, the employee's contract will revert to their original contract at the end of the specified period unless it has been mutually agreed for this period to be extended. It is not good practice to repeatedly extend flexible working request arrangements, and where this becomes apparent the variation in contractual terms will be treated as permanent unless it can be objectively justified by the School.

Employees are protected from suffering dismissal or detriment in the exercise of their right to apply to work flexibly.

#### **5. HANDLING A FLEXIBLE WORKING REQUEST**

School/Trust leaders must make a decision in response to the request and communicate this in writing to the employee as soon as possible or at least within 1 month of the employee making the request. In exceptional circumstances this may be extended through mutual agreement (but will not exceed 2 months including school closure periods) e.g. where the request falls within a school closure period. In order to be able to fully consider the request, the School leader must set up a meeting to discuss it.

The invitation to the meeting must be in writing, providing 5 working days' notice and employees must be given the opportunity to be accompanied by a work colleague or trade union representative if they so wish (see Letter Inviting Employee to Discuss Flexible Working Request/Appeal Appendix 3).

The meeting may include discussion on the following:

- the reason(s) that the employee wants the change
- the details of the request, how the employee sees it working in practice, and how any problems might be overcome
- any other options which might work, should the request be difficult to fulfil
- the impact on the Service/School
- whether it is necessary to implement a trial period and for how long

## **6. GIVING CONSIDERATION TO A FLEXIBLE WORKING REQUEST**

Every request must be handled in a reasonable manner. This should include carefully assessing the effect of the requested change on the School and on the employee, including the potential benefits and impacts for both parties of accepting or rejecting it.

School leaders must be able to objectively justify their decision on flexible working requests. The School must accept a flexible working request unless there is a genuine business reason not to (see section 8 below). Where there is such a reason, it might be possible to agree a request with modifications, or to agree an alternative proposal that secures some or all of the benefits that the original request sought.

Where School leaders are considering declining a flexible working request, they should consult their HR provider beforehand.

Any requests for a reasonable adjustment related to an employee's disability should be dealt with separately rather than as a flexible working request.

## **7. IF THE FLEXIBLE WORKING REQUEST IS ACCEPTED**

Where a flexible working request is accepted or alternative agreed, a start date and any other action will be confirmed in writing without reasonable delay or within 1 month of the request (unless an extension to this period has been mutually agreed). Any agreement to the flexible working request will be made on a permanent basis, unless otherwise agreed (see Flexible Working Request Acceptance Form - Appendix 4).

Where the School leader agrees to the employee's request, or agrees it with modifications, they should discuss with the employee how and when the changes might best be implemented.

In such cases when conveying the decision, School leaders should confirm with the employee the new working pattern, and the date that the new arrangements take effect.

Where the change will be implemented on a trial or fixed term basis, this should be made clear in the letter.

The employee must also be made aware that the arrangement will be reviewed periodically, as part of the normal line management 1:1 arrangements and the performance management review/appraisal process to ensure it continues to meet the personal and School needs, and that there are no health and safety or well-being concerns. Any attempt to change the employees contractual terms and conditions which has become permanent after a flexible working request would require formal consultation with the employee. The School/Trust must seek advice from their HR provider in such circumstances.

## **8. IF THE FLEXIBLE WORKING REQUEST IS REFUSED**

If a flexible working request is refused, the decision must be confirmed in writing within 5 working days of the meeting with the employee to discuss the flexible working request along with clear business reasons for the rejection together with notification of the appeals process (see Flexible Working Request Rejection Form - Appendix 5).

Requests for flexible working arrangements can be refused only for the following reasons:

- the burden of additional costs
- detrimental effect on ability to meet pupil needs
- inability to re-organise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes

See Potential Grounds for Refusal - Appendix 6.

## **9. APPEALS PROCESS**

The employee has 5 working days after the date of notification of decision, to appeal against the decision in writing to the Headteacher/Governing Board. The employee must set out the grounds for appeal. An appeal meeting will then take place without reasonable delay after receiving notice of the appeal.

The appeal meeting will provide an opportunity for the employee to discuss the content of their appeal, and the employee may bring a Trade Union representative or current work colleague with them (see Letter Inviting Employee to Discuss Flexible Working Request/Appeal - Appendix 3).

The employee will be informed of the outcome within 5 working days of the appeal meeting (see Flexible Working Request Appeal Reply Form - Appendix 6). If the appeal is upheld the written decision will include; a description of the new working pattern, the start date from which the new working pattern will take effect.

If the appeal is dismissed, the written decision will state the grounds for the decision and provide an explanation as to why the grounds for refusal apply in the circumstances.

There is no further right of appeal.

## 10. TIME LIMITS

If an employee is unable to attend the originally scheduled flexible working meeting/appeal meeting, they must inform the relevant School leader as soon as possible before the scheduled date. The School leader will rearrange the meeting at the next convenient time which must be within 5 working days of the originally scheduled date. If the employee fails to attend both the originally scheduled meeting and a rearranged meeting without a good reason (to be determined by the School), the School reserves the right to consider the request/appeal in writing or the request/appeal to have been withdrawn. The School will write to the employee confirming the decision.

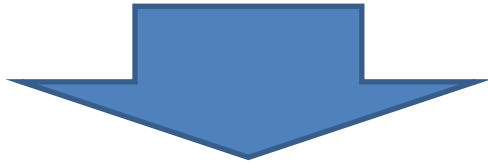
All requests, including any appeals, must be decided within a period of two months from when the School first receives the request (unless the School leader and employee agree to extend this period) as follows:

- Handling the flexible working request (sections 5 – 8): **1 month**
- Handling the appeal (section 9): **1 month**

The School leader and the employee can agree to extend any of these time limits. The School leader must record this agreement in writing, specifying the period to which the extension relates and the date on which the extension is to end.

**Appendix 1: PROCESS FLOWCHART**

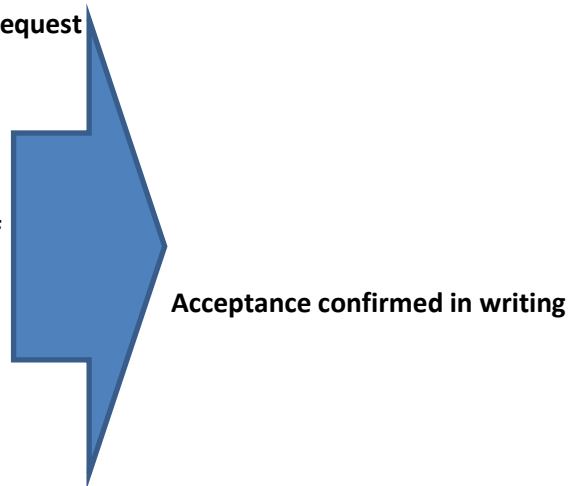
**School/Trust receives request for flexible working**



**School/Trust meets with employee to discuss the request**



**School/Trust writes to employee, notifying them of their decision**



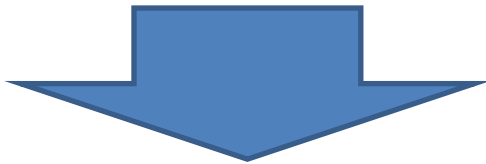
**Should the employee wish to appeal, they must do so in writing, setting out grounds of their appeal**



**School/Trust receives the employee's written appeal**



**School/Trust meets with the employee to discuss the appeal**



**School/Trust confirms in writing the outcome of the appeal**



**END OF PROCESS**

**Appendix 2: FLEXIBLE WORKING REQUEST FORM**

**1. Personal Details**

Name: Staff number:

Manager: School/Trust:

**To the School:**

I would like to request to work a flexible working pattern that is different to my current working pattern under my statutory right to request flexible working.

**1. Please insert the reason for your request (please include whether the request is made in relation to the Equality Act 2010 e.g. disability):**

- I have/have not\* (delete as applicable) made a request to work flexibly under this right during the past 12 months.
- Please insert the date of any previous request to work flexibly in the past 12 months (if applicable):

.....

**2a. Describe your current working pattern (days/hours/times worked):**

**2b. Describe the working pattern you would like to work in future (days/hours/times worked):**

**2c. I would like this working pattern to commence from:** (please note this process may take up to 2 months)

**Date:** .....

**Signed:** ..... **Date:** .....

**Print Name:** .....

### **Appendix 3: LETTER INVITING EMPLOYEE TO DISCUSS FLEXIBLE WORKING REQUEST/APPEAL**

Dear (Employees name)

#### **Flexible Working Request/Appeal**

I write further to the receipt of your flexible working request/appeal on (date).

I would like to invite you to a meeting to discuss your request/appeal on (date) at (time) at (venue).

You are entitled to bring a trade union representative or work colleague to accompany you at the meeting if you wish. It is your responsibility to arrange their attendance.

If you are unable to attend this meeting, I will re-schedule the meeting at the next convenient date within 5 working days. Please note that if you fail to attend both the originally scheduled meeting and rearranged meeting without a good reason, I may consider your flexible working request/appeal in writing or the request/appeal to have been withdrawn.

I attach a copy of the Flexible Working Policy for your information.

Yours sincerely,

Manager

Enc: Flexible Working Policy

Cc: Personal File

**Appendix 4: FLEXIBLE WORKING REQUEST ACCEPTANCE FORM**

Dear (Employees name)

I write further to the receipt of your flexible working request on (date) and the meeting we held to discuss your request and its implications on (date).

I have now had an opportunity to fully consider your request for a new flexible working pattern.

I am pleased to confirm that I am able to accommodate your request.

**OR**

I am unable to accommodate your original request. However, I am able to offer the alternative pattern which we discussed and which you agreed would be suitable to you.

Your new working pattern will be as follows:

Your new working pattern will commence on ..... (date)

Review Date.....

End Date.....

Please note that change in your working pattern will be a (temporary/permanent) (delete where applicable) change to your terms and conditions of employment and will be subject to review.

If you have any queries regarding any of the above information please contact me to discuss these as soon as possible.

Managers Name..... Date.....

## Appendix 5: FLEXIBLE WORKING REQUEST REJECTION FORM

### \*REFER TO APPENDIX 6

To (Employee's name) .....

Following receipt of your request on (date) and our meeting on (date), I have considered your request for a new flexible working pattern the details are as follows.

The work patterns which you requested and we discussed cannot be accommodated for the following business reasons (please ensure that only the reasons below are given for rejection, however it is essential that individual context and detail of rationale is included)

- the burden of additional costs
- detrimental effect on ability to meet pupil needs
- inability to re-organise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes

As discussed in our meeting, I outlined my rationale which includes the following: [Insert rationale/evidence].

During our meeting we explored alternative options that the School/Trust would be able to accommodate as follows: [Insert alternative options discussed]. However you did not consider that these would meet your needs

If you are unhappy with the decision, you have the right to appeal. Any such appeal should be made in writing to (name of headteacher/chair of governors) within 5 working days of receipt of this letter clearly stating the grounds of appeal.

If you have any further queries, please do not hesitate to contact me.

### Note to Managers

**Please ensure you have considered all points on Appendix 6 and sought HR advice prior to rejecting any flexible working requests**

## Appendix 6: POTENTIAL GROUNDS FOR REFUSAL

Business Issues	Points To Consider
The burden of additional cost	<ul style="list-style-type: none"> <li>• Are there significant extra training costs to cover an employee who has specialist skills/training</li> <li>• What are the additional costs</li> <li>• Are the additional costs significant given the size and resources of the School/Trust</li> </ul>
Detrimental effect on ability to meet pupil needs	<ul style="list-style-type: none"> <li>• Would meeting the employee's request mean that the service provided by the School/Trust would suffer</li> <li>• Is the employee requesting a change in hours that mean they would not be available to meet pupil and staffing needs</li> </ul>
Inability to recruit additional staff	<ul style="list-style-type: none"> <li>• What efforts have been made to recruit additional staff – how many times has the post been advertised</li> <li>• Have there been recent unsuccessful attempts to recruit to posts of a similar nature</li> <li>• Does the employee work in an area where there are recruitment difficulties</li> </ul>
Detrimental impact on quality	<ul style="list-style-type: none"> <li>• How will the proposed changes affect the quality of the service provided</li> <li>• Can it be demonstrated how the quality of service will be affected</li> </ul>
Detrimental impact on performance	<ul style="list-style-type: none"> <li>• Will the proposed arrangement have any effect on the School's/Trust's performance indicators and if so how can this be demonstrated</li> <li>• Will the proposal affect pupil outcomes</li> </ul>
Insufficiency of work during the periods the employee proposes to work	<ul style="list-style-type: none"> <li>• Is the proposal a change of hours to a time when the employee would not be available to meet pupil and staffing needs</li> </ul>
Planned structural changes	<ul style="list-style-type: none"> <li>• Has approval been given to a proposed structural change and a timescale planned</li> </ul>
Inability to re-organise work among existing staff	<ul style="list-style-type: none"> <li>• Have all the other employees in the team been consulted</li> </ul>

	<ul style="list-style-type: none"><li>• What normally happens when the employee making the request is on annual leave or is sick</li><li>• If a request is being rejected, are there other employees working flexibly carrying out the same or similar duties</li></ul>
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**Appendix 7: FLEXIBLE WORKING REQUEST APPEAL REPLY FORM**

To (Employee's name): .....

Following the appeal meeting on: .....(date).

I have considered your appeal against the decision to refuse your flexible working request.

I accept your appeal against the decision. We are therefore able to accommodate your original flexible working request to change your working pattern as follows (insert new working pattern)

Your new working arrangements will begin from::..... (date)

Review Date: .....

End Date (If Applicable) .....

Note to Employee

Please note that the change in your working pattern will be a (temporary/permanent) (delete where applicable) change to your terms and conditions of employment.

OR

To (Employee's name): .....

Following the appeal meeting on: .....(date).

I have considered your appeal against the decision to refuse your flexible working request.

I am rejecting your appeal on the following grounds: (insert rationale)

This decision is final and there is no further right of appeal.

Name: ..... Date: .....