

# Flexible Working Policy

## 1. Introduction

### **Purpose**

This policy provides a procedure for dealing with requests from school employees to vary their working pattern.

Employees are as defined in section 230 of the Employment Rights Act 1996 or any substituting or amending legislation. The policy does not apply to agency workers, consultants or self employed contractors.

The policy incorporates the statutory right to request flexible working and sets out the employer's responsibilities.

### **Eligibility**

Under current employment legislation parents of children under the age of 17 (or 18 if disabled) and carers of certain adults have a statutory "Right to Request Flexible Working". Effective 30 June 2014 this right to request flexible working is extended to all employees.

To be eligible to apply employees must:

- have been employed for 26 weeks continuously at the date of their application
- not have made a previous application under this policy during the past 12 months.

To apply as a parent or as a carer the employee must either be:

- the parent, adoptive parent, guardian, special guardian or foster parent of a child under 17 (or 18 if disabled), or the spouse, civil partner, partner of such a person; or the carer for an adult aged 18 or over who is the employee's spouse, civil partner, partner or is a near relative, or someone living at the same address as the employee and have or expect to have, responsibility for the child or if the application is in respect of an adult, care for or expect to care for, an adult in need of care

### **Representation**

Employees may be accompanied by a trade union representative or a work colleague at formal meetings set out in this policy.

## 2. Flexible working options

Employees can request a permanent or a fixed term change to their working hours or a change to their pattern of work i.e. the times or days of work.

Requests made on a fixed term basis should not exceed a period of six months. At the end of the fixed term period the employee will be expected to revert back to their previous contractual working pattern.

If the employee then wishes to make the arrangement permanent they should discuss the possibility with the Head Teacher prior to the end of the fixed term period. A further application is not required. The Head Teacher should however respond using the process outlined in paragraphs in section 3 when arriving at their decision.

This policy does not apply to a short term or one off request that an employee might make to vary their working hours/pattern to coincide with a domestic requirement. Such requests should be addressed informally by the Head Teacher.

## 3. Procedure for applying to work flexibly

### **Making a request**

Applications to work flexibly must be made on the Request for Flexible Working Form, which is available as an appendix to this policy. The completed form is to be submitted to the Head Teacher.

Employees must declare any conflict of interest that may arise from a request or an approval to work flexibly.

Employees returning to work from maternity or adoption leave and wanting to apply for flexible working under this policy, should submit their application at least two months before they are due to return to work. This is to maximise the possibility of new arrangements taking effect from their return.

An employee who has returned from maternity or adoption leave on a phased return and then wishes to submit an application to work flexibly, should provide at least two months notice before the end of the phased return period (or as soon as is reasonably practicable).

### **Meeting with employee**

The Head Teacher will meet with the employee within **28 days** of receiving the application. The employee may be accompanied by their trade union representative or a work colleague. The purpose of the meeting is to:

- further explore the desired work pattern and discuss how this would work in practice
- talk through any problems which may arise from the proposed changes
- discuss alternative working arrangements if the requested working pattern cannot be accommodated
- consider possible start dates agree on a trial period if necessary
- explain the effect that their request will have on terms and conditions e.g. reduction in pay, annual leave.

### **Considering the business case of a request**

Whilst employees have the right to request flexible working, there is no obligation on employers to agree a request. The Head Teacher must however give due consideration to the request and arrive at a decision based on the business needs of the service.

The business case for each application will necessitate careful consideration of the work involved and assessing any detrimental effect the change could have on individual, team or service performance and cost implications.

The Head Teacher will therefore as a minimum take into account the following to ensure that service delivery is not compromised:

- the cost of the proposed arrangement
- the level of supervision that the postholder requires
- the impact of any variation of working hours on the employee's health and performance (e.g. working a compressed week)
- the structure of the team and staff resources
- the effect of the proposed arrangement and residual work on other staff
- any other team specific issues

In the case of competing requests, precedence will be given to those who have a statutory right under this policy.

Within **14 working days** of this meeting the Head Teacher will write to the employee to inform them that their request has been accepted or refused.

### **Successful applications**

Where the employee's request is accepted the written notification must:

- confirm acceptance and include a description of the new working pattern or confirm a compromise agreed at the meeting
- state the date from which the new working pattern is to take effect

- if relevant, state that any agreement to work a job share arrangement is subject to a job share partner being found
- state any agreed trial period arrangements
- include a reminder that that the change is a permanent change to the employee's terms and conditions of employment and specify what these are (unless the request was for a fixed term)

The Head Teacher will need to notify their Human Resources team of the agreement in good time of the date of effect to ensure that contractual changes are made as appropriate.

### **Trial periods**

New arrangements may be subject to a trial period where appropriate. The length and terms of the trial period will be discussed with the employee prior to any changes being implemented and will be determined on a case-by-case basis, depending on the nature of the change and role being performed by the employee.

During the trial period the line manager should:

- hold regular meetings/discussions with the employee
- discuss the suitability of the revised working arrangements and agree any necessary adjustments

If, on completion of the trial period, the line manager and/or the employee determine that the new arrangements are inappropriate and no suitable adjustments can be made, the employee will be required to revert to the terms and conditions that applied previously. Employees will have the right to appeal against this decision.

### **Unsuccessful applications**

The Head Teacher must have a clear business reason for refusing a request, which falls into one of the following categories and is outlined in the written notification:

- the additional costs will impose too high a burden on the team or department
- agreeing to the request will have a detrimental effect on the ability to meet service requirements
- that management is unable to re-organise work among existing staff
- the line manager is unable to recruit additional staff
- agreeing to the request will have a detrimental impact on quality of service or performance
- the pattern requested does not adequately meet the demands for the post
- the line manager has planned structural changes to the team or department into which the proposed changes do not fit.

### **Timescale and withdrawal of application**

Time limits are set in the procedure and can be extended either through agreement by the Head Teacher and the employee or through the absence from work of the Head Teacher dealing with the application. In all instances a written record should be made and a copy sent to the employee.

There will however be occasions when an application may be taken as withdrawn. These are if the employee:

- withdraws their application
- without reasonable cause, fails to attend two meetings
- without reasonable cause, refuses to provide the required information

Confirmation of withdrawal should be provided in writing or requested from the employee if they had verbally withdrawn their application.

Employees whose applications are withdrawn without reasonable cause will not be eligible to make another application for 12 months from the date of their application.

### **Appeals**

Employees have a right of appeal should their request not be approved. Appeals must be lodged in writing within 14 days of receipt of the notification and must state the basis of the appeal, together with any supporting papers.

The appeal is to be submitted to the Head Teacher, who will ensure that the necessary arrangements are made for the appeal hearing.

The appeal will be heard by the Appeals Committee formed in accordance with Schools (Government) Regulations. A HR representative will attend as adviser to the Panel.

The appeal meeting should be held within 14 days of receipt of the appeal and employees will be given at least 3 working days' notice of the meeting.

The employee will be required to attend the appeal to present their case and may, if they wish, be accompanied by their trade union representative or a work colleague.

The panel may seek clarification or verification of information from the Head Teacher before responding to the employee.

The Chair of the appeal panel will inform the employee of the outcome of the appeal in writing within 14 days of the appeal meeting.

If the appeal is upheld the written notification should:

- include a description of the new working pattern
- state the date from which the new working pattern is to take effect
- include a reminder that that the change is a permanent change to the employee's terms and conditions of employment (unless the request was for a fixed term)

If the appeal is dismissed the written notification should:

- state the grounds for the decision
- provide an explanation as to why the grounds for refusal apply in the circumstances

There will however be occasions when an application may be taken as withdrawn. This will be undertaken if an employee without reasonable cause fails to attend pre organised meetings with appropriate prior notification.

#### 4. Terms and conditions of employment

Where an employee's working hours are reduced, salary will be paid pro-rata to the full time equivalent in accordance with the number of hours worked. Other terms of conditions e.g. annual leave, may also need to be amended to reflect pro-rata entitlements.

Applications that are approved will be a permanent change to the employee's contractual terms and conditions, unless the approval is for a fixed term. The employee has no right to revert to the previous working pattern.

A revised contract of employment will be issued once the variation in terms and conditions have been formally agreed. The Head Teacher must therefore notify the Human Resources team, so that revised contracts can be issued and the appropriate changes made to the Establishment.

#### **Job sharing**

Job sharing is defined as an employee who works part time and shares all the duties and responsibilities of a full time position with another employee. The total hours for a job share arrangement should not exceed the full time equivalent for the post.

Requests for job share will only be considered where two applicants are jointly applying for one post.

An existing employee who wishes to reduce their hours may make a request for flexible working setting out their reasons and the hours being sought. As part of the consideration the manager will determine how the request might be accommodated. This may include advertising the remaining hours as a job share arrangement.

If a job share vacancy cannot be filled after a period of three months, the Head Teacher, in consultation with the employee, may revert the post to full time or if possible agree to part-time hours.

When a job share partner leaves, the hours they worked may be offered to the remaining partner. However the remaining employee does not have an automatic right to these hours.

A former job sharer who continues in a part time post i.e. there is no longer a job share partner; will revert to wholly part-time terms and conditions.

Job sharers will receive entitlements applicable to their service conditions, e.g. annual leave, on a pro-rata basis. Bank holiday entitlements will be shared between the two employees.

Job share partners do not need to be paid at the same spinal column point within the grade of the post e.g. one partner may have longer service and consequently be on a higher spinal column point.

Contractual changes to any job share arrangements must be notified to the Human Resources team, so that revised contracts can be issued and the appropriate changes made to the School's establishment list.

## **Review**

This policy will be reviewed by the Headteacher and Governing Body every three years, or sooner, if needed.

Agreed: July 2019

Review: July 2022