

# Requests to Work Flexibly



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2		
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4		

## **CONTENTS**

1. Introduction
2. Types of Flexible Working Practices
3. Making/Considering a Request to Work Flexibly
4. Applying for Flexible Working
5. The Application Process
6. Refusal/Withdrawal of a Request
7. Terms and Conditions

## **1. INTRODUCTION**

- 1.1 Under provisions set out in the Employment Rights Act 1996 and regulations made under it, all employees have a statutory right to ask their employer for a change to their contractual terms and conditions of employment to enable them to work flexibly.
- 1.2 There is no automatic right to work flexibly as there may be circumstances where the trust is unable to accommodate a desired work arrangement. However, the trust has a statutory duty to consider any requests that meet the statutory definition and will consider requests from any employee.
- 1.4 As part of the statutory right, employees must have at least 26 weeks continuous service at the date a request is made. However, if employees would like to make a request but do not meet the service requirement, they should discuss this with their Headteacher.

## **2. TYPES OF FLEXIBLE WORKING PRACTICES**

- 2.1 Employees may request to change:
  - the number of hours they are required to work
  - the times they are required to work
- 2.2 Applications for a change in working arrangements may not always require a significant alteration, for example, an employee may request to start work half an hour later and make up the time later in the day.
- 2.3 Examples of work arrangements that may be considered include:
  - **part time working** - working less than full time hours for a pro rata reduction in pay and other benefits
  - **compressed working hours** - working the total number of hours over fewer days, for example, working full time hours over four days per week instead of five, or working nine days per fortnight instead of ten
  - **flexi time** - choice of varying start, finish and lunch times to be considered within the context of school delivery.
  - **homeworking** - working from home either on a full time basis or dividing working time between home and the office. In the context of school delivery however, this would be in exceptional circumstances and apply only to limited groups of staff.

- **job sharing** - two part time employees sharing the duties of one post, dividing responsibilities, pay, holiday, and other benefits on a pro rata basis, according to the number of hours worked
- **staggered hours** - employees have different start, finish and break times in turn
- **swapping hours** - employees can swap hours or shifts with colleagues doing the same type of work at different times of the day
- **term time working** - allows employees to work during term time but have time off during standard school holiday periods

### **3. MAKING/CONSIDERING A REQUEST TO WORK FLEXIBLY**

3.1 Employees, when making a request, and the Trust, when considering a request should take into account the following issues:

- the duties and responsibilities of the role
- any special requirements, including statutory requirements
- aspects of work that need to be done in a team environment or at particular times of the day/week/month/year
- requirement of the employee to attend the workplace at certain times
- current and previous working arrangements
- possible impact on other team members
- requirement for face to face or personal contact
- requirement for direct supervision
- requirement for IT and other resources
- costs involved (savings or gains)
- pursuit of longer term, organisational aims and objectives
- health, safety and welfare issues
- issues of confidentiality and data protection
- needs of children/families/customers and other stakeholders

3.2 The Trust will need to have 'objective justification' to turn down an application. A decision to refuse an application should only be taken after consultation with Human Resources and be based on business case related grounds, for example:

- the burden of additional costs
- detrimental effect on the ability to meet customer needs and demands
- detrimental impact on the quality of service delivery
- the impact on performance of the employee, team and the work of the section

- the inability to reorganise work amongst employees
- the inability to recruit additional employees
- insufficiency of work during the periods the employee wishes to work or peaks at other times
- planned structural changes
- existing working arrangements within the team

#### **4. APPLYING FOR FLEXIBLE WORKING**

- 4.1 The onus is on the employee in the first instance to consider their own work and personal situation and take the decision as to whether or not to make a request to work flexibly.
- 4.2 Before making an application, the employee should discuss and explore the possibilities of flexible working with the Headteacher and contact their trade union representative for advice and guidance. This discussion will enable both parties to consider the feasibility and appropriateness of a range of flexible working options to meet both the needs of the employee and the needs of the service. Any informal discussions will not prejudice the right to submit a formal request to work flexibly.
- 4.3 Any agreed changes to working arrangements will normally be a permanent change to the employee's terms and conditions, however, a trial period should be considered to ensure the new arrangements suit both the needs of the employee and the needs of the trust.
- 4.4 It is important to remember that if the change in working arrangements result in working fewer hours, pay and benefits will also be reduced.
- 4.5 The application process can take several weeks to complete, sometimes longer if a problem arises. Employees may want to start talks early on in order that an application can be submitted well in advance of the date on which the new arrangements are to start.
- 4.6 If an employee is due to start maternity or adoption leave, and wants the changes to start on their return to work, they would need to think carefully about when to make the request. Bearing in mind that, meetings with the Headteacher to ensure that your request can be properly considered may be required and taking into consideration the school holiday periods.

#### **5. THE APPLICATION PROCESS**

The application process has four stages.

## **STAGE ONE**

- 5.1 A formal application must be submitted to the Trust.
- 5.2 The application form must clearly state:
- the date of any previous applications
  - what the current working arrangements are
  - the working arrangement to be considered
  - the reason for the request
  - whether the employee has 26 weeks continuous service
  - the effective date of the proposed change
  - the effects that the change is likely to have on your job role, the team and the trust and how issues should be dealt with
- 5.3 If you require any further information or guidance please contact Human Resources or alternatively your Trade Union representative.

## **STAGE TWO**

- 5.4 The Trust considers the request and any effects on the role, colleagues and the needs of the Trust.
- 5.5 If the request can be accommodated, written confirmation should be sent to the employee as soon as practically possible. The letter will specify a start date, any trial period arrangements and will explain how pay and benefits will be affected.
- 5.6 If there are concerns about the proposed changes, a meeting should be arranged as soon as practically possible to discuss the desired work arrangement in detail and how this might be accommodated. The meeting will also provide an opportunity to discuss alternative working arrangements should there be problems accommodating the desired work arrangement. Employees may be accompanied at the meeting (and subsequent meetings) by a Trade Union representative or a workplace colleague. The presence of a Human Resources representative may also be requested.
- 5.7 The law requires that all requests, including any resulting appeals, must be considered and decided on within a period of three months from first receipt, unless both parties agree to extend the timescales.

### **STAGE THREE**

- 5.8 The Trust must write to the employee within 10 days of the meeting. The letter will either confirm agreement to a change in working arrangements, or provide clear business reasons as to why the change cannot be accommodated.
- 5.9 If the application is accepted, the letter will specify a start date, any trial arrangements and will explain how pay and benefits will be affected.
- 5.10 Where a trial period is agreed, a review meeting should be arranged at the end of the trial period. If the trial period has been successful, the change to your working arrangements will be confirmed as permanent. If the trial period has been deemed unsuccessful (by either the employee or the Trust) and no further alternative arrangements are suitable, the employee will revert back to the original working arrangements.
- 5.11 If the application is refused (as it is deemed unsuitable by the Trust), the employee will be given the right to appeal the decision. This must be clearly stated in the letter to the employee.

### **STAGE FOUR**

- 5.12 Any appeal must be in writing to the Chair of Trustees within 10 days of being notified of the refusal.
- 5.13 An appeal meeting will be arranged and heard by the Trustees Appeals Committee as soon as possible (bearing in mind the 3 month timescale), unless both parties have agreed to extend those timescales. The hearing will be a review of the decision and will be supported by HR. The employee has the right to attend the appeal and be accompanied by a trade union representative or work colleague. The Trustee that was involved in making the decision may also attend if appropriate.
- 5.14 The decision should be given at the hearing wherever possible and will in any event be confirmed in writing within 10 days of the appeal meeting.
- 5.15 As a guide, the following timescales may be of assistance:
  - 1. The Trust is to consider a request within 4-6 weeks of receipt (including any meeting with the individual to discuss the application).
  - 2. The Trust is to write to the individual within 10 working days of a decision being made.
  - 3. If rejected, the employee is to appeal the decision within 10 working days.
  - 4. The Trustees Appeal committee then has up to 4 weeks to arrange an appeal hearing.

5. The Trustees Appeal committee to write to the employee within 10 working days of the appeal hearing.

The above timescales would equate to a 3 month period, therefore if it is not possible at any stage for the employee or employer to work within those timescales, consideration should be given to agreeing to extend the timescales.

## **6. REFUSAL/WITHDRAWAL OF A REQUEST**

- 6.1 An employee may withdraw their application at any time before it has been accepted. This must be put in writing to the Trust.
- 6.2 The Trust will need to have 'objective justification' to turn down the application and this must be based on one or more of the business case related grounds in 3.2. Human Resources should be consulted before an application is turned down.
- 6.3 Where the application for flexible working is refused or withdrawn, the employee may not submit a further application until a period of 12 months has elapsed from the date of your original application. The only exception to this is where there has been a significant change in circumstances which must be clearly explained and detailed on the application form.
- 6.4 Where the application is accepted, and the employee decides they want to revert back to their previous working arrangements, they would need to submit another application for consideration by the Trust. Unless there has been a significant change in circumstances, the application can only be submitted after a 12 month period from the date of the original application.
- 6.5 An employee has the right not to be treated less favourably or to be victimised for exercising the right to make a flexible working request.

## **7. TERMS AND CONDITIONS**

- 7.1 Any agreed change, even for a trial period, that will affect the employees pay and benefits must be notified to Employee Services or your payroll provider.
- 7.2 The agreed working arrangements will become a permanent change (following a trial period, where applicable) and the employee will be issued with an amended contract of employment.