



# Flexible Working Policy

01 September 2022

## Version Control

Current version	Previous version	Summary of changes made
15 June 2021	11 Nov 20	Updated to reflect the specific responsibilities of the Governing Body when considering a Head Teacher request.
11 Nov 20	28 Dec 16	Process for Head Teachers requesting flexible working clarified.
01 Sep 22	04 Jul 14	Links to legislation in Section 1 updated.
04 Nov 14	01 Jul 14	Introduction updated to due to changes to the Flexible Working Regulations 2014 which came into effect June 2014. Formatting of paragraphs, headings and appendices standardised.

## Contents

<b>Section</b>		<b>Page</b>
1	Introduction	4
2	Eligibility criteria	4
3	The application process	4
4	The appeal procedure	7
5	Notice of withdrawal of application form	8
6	Extension of time limits	8
7	Dismissal or detriment	9

<b>Appendix</b>		<b>Page</b>
A	Flexible working application form	10
B	Head Teachers confirmation of flexible working request	12
C	Acceptance of flexible working application	13
D	Rejection of flexible working application	14
E	Flexible working appeal form	15
F	Flexible working appeal reply form	16
G	Flexible working notice of withdrawal of application	17
H	Flexible working extension of time limit form	18

# 1 Introduction

- 1.1 The [Employment Act 2002](#) provided parents of children under six, or of disabled children under eighteen, the right to request to work flexibly and placed a duty on employers to consider such requests seriously.
- 1.2 In April 2009, the [Flexible Working \(Eligibility, Complaints and Remedies\) \(Amendment\) Regulations 2009](#) extended this right to apply to parents with children under seventeen years of age.
- 1.3 The [Work and Families Act 2006](#) which came into effect on 6 April 2007 gave the right to request flexible working to employees who are carers of dependant adults.
- 1.4 The new [Flexible Working Regulations 2014](#) (introduced by Part 9 of the [Children and Families Act 2014](#)) which came into effect 30 June 2014, remove the requirement to be a carer and extend the right to request flexible working to all employees with at least 26 weeks service; employers must consider all requests in a reasonable manner.

## 2 Eligibility criteria

- 2.1 To be eligible to make a request under the statutory right, a person must:
  - be an employee
  - have 26 weeks continuous Local Government service at the date the application is made
  - not have made another application to work flexibly under the right in the previous 12 months

## 3 The application process

### Making a request

- 3.1 Employees can make a request to change the hours, time and/or place at which they work. Members of staff apply to the Head Teacher, where the application is from a Head Teacher it is made to the Chair of Governors.

An employee's application must:

- be in writing
- state that the application is being made under the statutory right to request a flexible working pattern
- specify the employees desired flexible working pattern
- explain what effect, if any, the employee thinks the proposed change would have on the organisation and how, in their opinion, this effect might be dealt with. (This includes the effect on colleagues, customers and service provision)
- state the date on which it is proposed the change should become effective (allowing sufficient time for the application to be considered and implemented)
- state whether a previous application has been made to the employer and when
- be dated

- 3.2 The date is important because the Head Teacher has a duty to follow a specified procedure in considering applications to work flexibly and each step is time dependent. The regulations take the date when an application is made to be the date on which it is received by the Head Teacher/Chair of Governors. Where an application is transmitted by email it is deemed to be received on the day on which it is sent. Where an application is sent by post, it is deemed to be received on the day on which it would be delivered in the ordinary course of post.
- 3.3 Employees should bear in mind that it is generally helpful for their Head Teacher/Chair of Governors to have as much information as possible about their situation.
- 3.4 In addition, employees thinking about changing their working pattern should:
- speak to their Head Teacher as early as possible in order to explore what opportunities may be available
  - be aware that under the statutory procedure, the process of making and considering a request can take up to 14 weeks
  - understand that if a flexible working request is agreed, this represents a permanent change to the employment contract (unless a trial period has been agreed), this means that employees have no right to revert back to the previous working pattern
  - be aware that only one application every 12 months can be made under the right. This is regardless of whether a previous application was made
- 3.5 All employees making a flexible working request should complete the form at [Appendix A](#). This ensures that all the minimum necessary information under the legislation is provided and gives the Head Teacher/ Chair of Governors all the information they will need to fully consider any application made.
- 3.6 Employees who fail to provide all the information requested will be told which information has been omitted and asked to re-submit the application when complete. Employees should be aware that their Head Teacher/Chair of Governors is not obliged to consider the application until it is complete and re-submitted.

## Considering the application

- 3.7 The following guidelines set out the process that will be followed when considering a flexible working request and reflect the procedural requirements set out in the legislation.

### Step 1: Application received

- 3.8 On receipt of the application, the Head Teacher or Chair of Governors must complete [Appendix B](#) and arrange to meet with the employee to discuss their application within 28 days following receipt of the request.
- 3.9 On receipt of an application from a Head Teacher, the Chair of Governors must call an Extraordinary meeting of the Governing Board. The Chair should notify Governors that a flexible working request has been received from the Head Teacher and a Panel of 3 impartial non-staff governors, should be selected to consider the application. The Chair of the Panel should also be agreed at this stage. At this meeting, the Governing Board should be informed that any subsequent decisions of this Panel (and subsequent Appeal Panel) may require changes to the strategic leadership and management of

the School, including the appointment of an additional Head Teacher, and that the Governing Body will need to delegate such decisions to the Panels. Details of the request should not be discussed at this stage by the full Governing Board. At the same meeting, the Governing Board, should also agree 3 impartial non-staff governors, to hear any appeal that may arise. To ensure fairness, members of the Appeal panel must be different and same in number to the original panel. The Chair of the Appeals Panel should also be agreed at this stage.

- 3.10 The meeting provides both parties with the opportunity to discuss the desired work pattern in depth and consider how it might be accommodated. The employee has the right to be accompanied at the meeting by a Trade Union representative or a work colleague.

Where a Head Teacher job share is being considered agreement on well-structured management systems and clarification about roles and responsibilities will be essential. It is also good practice to build in a periodic review so that a designated governor or governors can evaluate the arrangement.

- 3.11 If an employee fails to attend the meeting, they should contact the Head Teacher or Chair of Panel as soon as possible and re-arrange the meeting at a mutually convenient time. Employees should be clear that if they fail to attend two or more meetings, their application will be treated as withdrawn (see Section 6).

### **Step 3: Consider alternatives**

- 3.12 If the requested pattern cannot be accommodated, the meeting also provides an opportunity to discuss alternative working arrangements that may be appropriate.

This could include a trial period of the new working pattern, for, say 12 weeks, in which case, time for a final decision to be given by the Head Teacher, will be extended until the end of the trial period. The employee will be informed of the extension, in writing, using [Appendix H](#). Where a trial period relates to the flexible working of the Head Teacher, the final decision will be taken by the Panel

- 3.13 In other circumstances, for example where an employee is going to be caring for someone with a terminal illness or fluctuating condition, it may be concluded that an informal agreement, allowing an employee to work flexibly for a limited period may be more appropriate.
- 3.14 Where possible, informal agreements should still be put in writing, so that both the employee and their Head Teacher / Chair of Governors are clear about the arrangements.
- 3.15 Where a panel agree in principle to a request made by the Head Teacher, any final decision will be based on the ability to appoint a suitable Co-Head. Where this process is unsuccessful, a further meeting of the Panel will be held to discuss alternatives, or rejection of the request.

### **Step 4: Confirm the outcome**

- 3.16 The Head Teacher or Chair of Panel (if the application relates to the Head Teacher) must confirm their decision, in writing with the employee within 14 days, following the meeting.

- 3.17 If the requested working pattern can be accommodated, or an alternative arrangement can be found the Head Teacher or Chair of Panel completes [Appendix C](#).
- 3.18 Where the request relates to the Head Teacher; the Chair of Panel must inform the full Governing Board of the decision of the Panel. Any change to the Leadership structure of the school must be ratified by the full Governing Board.
- 3.19 Where appropriate, the Head Teacher or Chair of Panel should also:
- inform School's HR Adviser of the new working pattern
  - amend the employee's pay
  - inform colleagues and anyone else affected, of the new working pattern
  - follow the Home Working Policy if an employee will be working from home
- 3.20 If the requested working pattern cannot be accommodated, the Head Teacher or Chair of Panel completes [Appendix D](#).

## **Rejection of a flexible working request**

- 3.21 An application can and will only be refused where there is a clear business reason for doing so. The grounds on which a request for flexible working can be rejected are as follows:
- the burden of additional costs
  - detrimental effect in ability to meet customer demands
  - inability to reorganise work amongst existing staff
  - inability to recruit additional staff (in the case of Head Teacher requests see section 3.15)
  - detrimental impact on quality
  - detrimental impact on performance
  - insufficiency of work during the periods the employee proposes to work
  - planned structural change
- 3.22 As stated above the Head Teacher or Chair of Panel must write to their employee, using [Appendix D](#), within 14 days following the meeting to discuss the request for flexible working.
- 3.23 The Head Teacher or Chair of Panel will have to state the business grounds as to why they are unable to agree to the requested working pattern.
- 3.24 The Head Teacher or Chair of Panel must also lay out the reasons why the grounds apply in the circumstances. The explanation should be brief, but accurate and include the key facts about why the business ground applies.
- 3.25 This is useful as experience shows that an employee who understands why the business reason is relevant, will accept the outcome and be satisfied that their application has been taken seriously, even if they are disappointed that the application has been refused.

## 4 The appeal procedure

- 4.1 An employee has a right of appeal against their Head Teacher or Chair of the Panel's decision not to agree to the request to flexible working. If an employee opts to appeal against his/her Head Teacher or Chair of the Panel's decision to refuse an application, the following procedure will apply.

### Step 1: Employee submits appeal

- 4.2 The employee must write to their Chair of Governors, using [Appendix E](#), setting out the grounds for their appeal within 14 days of receiving their Head Teacher's decision.
- 4.3 Where the Head Teacher is appealing against the rejection of a flexible working request, they must write to the Chair of the Appeal Panel, using [Appendix E](#), setting out the grounds for their appeal within 14 days of receiving the Panel's written notice of the decision. The Appeal Panel should have already been agreed at the start of the flexible working process by the full Governing Board. To ensure fairness, any members of the Appeal Panel should not be involved in any decision making or recruitment processes relating to the first stages of the request.

### Step 2: Appeal meeting held

- 4.4 The Chair of Governors will arrange to meet with the employee within 14 days of receipt of [Appendix E](#).
- 4.5 In relation to appeals from the Head Teacher, the Appeal Panel will arrange to meet with the Head Teacher within 14 days of receipt of [Appendix E](#).

### Step 3: Appeal outcome confirmed

- 4.6 Following the meeting, the Chair of Governors / Chair of Appeal Panel for Head Teacher appeals must confirm in writing, within 14 days of the meeting their decision using [Appendix F](#).
- 4.7 If an employee remains dissatisfied with the outcome of their appeal, they have recourse to the formal School Grievance Procedure and will be heard by the Grievance Panel of the Governing Body.

## 5 Notice of withdrawal of application form

- 5.1 In the event that an employee chooses to withdraw their application to work flexibly, [Appendix G](#) must be completed by the employee and sent to the Head Teacher/ Chair of Governors / Chair of Panel.
- 5.2 The Head Teacher/ Chair of Governors / Chair of Panel will confirm receipt of an employee's wish to withdraw their request, using the tear of slip at the bottom of the form.
- 5.3 A Head Teacher can also treat an application as withdrawn if:
- The employee fails to attend two meetings to discuss the application or an appeal, without reasonable cause.
  - The employee unreasonably refuses to provide the employer with the required information. For example, if an employee requests to work from home but does



not provide sufficient access or information to enable the Head Teacher to ensure their work space meets health and safety standards.

- 5.4 In all circumstances the Head Teacher should make a written record of the withdrawal and the employee will not be able to submit a further application to work flexibly for twelve months from the date at which the application was withdrawn.

## **6 Extension of time limits**

- 6.1 Through mutual agreement a Head Teacher or Chair of Panel and an employee, where appropriate, can seek to extend any of timescales above using [Appendix H](#).
- 6.2 Where a Head Teacher or Chair of Panel, who will deal with a request to work flexibly, is absent from work due to annual leave or sickness, an automatic extension applies.
- 6.3 In such circumstances a Head Teacher or Chair of Panel will arrange a meeting on either the date the employee returns to work, or 28 days after the application is made, whichever is the sooner.

## **7 Dismissal or detriment**

- 7.1 An employee will be protected from suffering dismissal or detriment if they exercise, or proposes to exercise, their right to work flexibly. A complaint can also be made to an Employment Tribunal if:
- an employee has suffered detriment as a result of exercising or seeking to exercise his/her right to apply to work flexibly
  - an employee has been dismissed as a result of exercising or seeking to exercise his/her right to apply to work flexibly
  - a fellow employee has suffered detriment or been dismissed as a result of accompanying a work colleague exercising his/her right to apply to work flexibly



**I think that the change in my working pattern will affect the school (including the Head Teacher, colleagues, pupils and service provisions) in the following ways:**

**Applicants may also wish to include details of ways in which the change in working pattern may benefit the school and/or any additional information in support of their application:**

**I think the effect(s) described above can be dealt with in the following ways:**

**Signed**

**Date**

**To be completed by the employee with a copy to the Head Teacher / Chair of Governors if Head Teacher Application and School's HR Adviser.**

## APPENDIX B

# Confirmation of flexible working request



Date \_\_\_\_\_

Dear \_\_\_\_\_,

I confirm that I have received your request dated \_\_\_\_\_ to change your working pattern from \_\_\_\_\_.

I / the Panel understand you wish to amend you working hours on a temporary basis from \_\_\_\_\_ \*to \_\_\_\_\_ when you will revert to your current working hours\*

I shall be arranging a meeting to discuss your application within 28 days of receipt of your letter.

You have the right to be accompanied by a Trade Union Representative or a colleague at the meeting.

Should you wish to be accompanied, you will be responsible for making the appropriate arrangements for them to attend the meeting.

Yours sincerely,

\*delete as appropriate

To be completed by the Head Teacher / Chair of Panel if Head Teacher Application, with a copy to the School's HR Adviser.

## APPENDIX C

# Acceptance of flexible working application



Date \_\_\_\_\_

Dear \_\_\_\_\_,

Following receipt of your application for flexible working and our meeting on \_\_\_\_\_ I / we have considered your request to work a flexible working pattern.

I am pleased to confirm that I / we can accommodate your application\*

I / we am / are unable to accommodate your original request. However, I / we am / are able to offer the alternative pattern, which we have discussed, and you agree would be suitable to you.\*

Your new working arrangements are as follows \_\_\_\_\_ and will begin from \_\_\_\_\_.

Please note that the change to your working pattern will be a permanent change to your terms and conditions of service and you have no right in law to revert back to your previous working pattern.

The only exception to this is when you only wish to seek the variation for a specified time period only.

Please sign and date the attached copy letter as an acceptance of your revised working pattern.

Yours sincerely,

\*delete as appropriate

To be completed by the Head Teacher or Chair of Panel, with a copy to the School's HR Adviser and returned to the employee.

## APPENDIX D

# Rejection of flexible working application



Date \_\_\_\_\_

Dear \_\_\_\_\_,

Following receipt of your application to revise your working pattern and our meeting on \_\_\_\_\_, where alternative working patterns to your request were also discussed, I / we have considered your request for a flexible working pattern.

I am sorry but I/ we am unable to accommodate your request for the following business reasons:

\_\_\_\_\_

These grounds apply in the circumstances because:

\_\_\_\_\_

If you are unhappy with my / the Panel's decision you have the right of appeal to the Chair of Governors or Chair of Appeal Panel, **(insert address)**.

You must complete the attached form setting out the grounds of your appeal within 14 days of receipt of this letter.

Yours sincerely,

**To be completed by the Head Teacher or Chair of Panel, with a copy to the School's HR Adviser and returned to the employee.**

## APPENDIX E

# Flexible working appeal form



Date \_\_\_\_\_

Dear \_\_\_\_\_,

I wish to appeal against the decision of \_\_\_\_\_ to refuse my application for flexible working. I am appealing on the following grounds:

\_\_\_\_\_

Yours sincerely,

To be completed by the employee and returned to the Chair of Governors or Chair of Appeal Panel if Head Teacher Application with a copy to the School's HR Adviser.

## APPENDIX F

# Flexible working appeal reply form

Date \_\_\_\_\_

Dear \_\_\_\_\_,

I / The Appeal Panel have considered your appeal against the decision to refuse your application to work a flexible work pattern. I accept your appeal against the decision.

I am / We are therefore able to accommodate your original request to change your working pattern as follows \_\_\_\_\_

Your new working arrangements will begin from \_\_\_\_\_.

Please note that the change to your working pattern will be a permanent change to your terms and conditions of service and you have no right in law to revert back to your previous working pattern.

The only exception to this is when you only wish to seek the variation for a specified time period only.

Yours sincerely,

Chair of Governors / Chair of Appeal Panel

or

Dear \_\_\_\_\_,

Following our meeting on \_\_\_\_\_ I / The Appeal Panel have considered your appeal against the decision to refuse your application to work a flexible work pattern.

I / We regret I / we am still not in a position to agree to your request on the following grounds:

\_\_\_\_\_

If you are unhappy with my decision, you have recourse to the School's Grievance Procedure. I attach a copy of the Procedure for your information.

Yours sincerely,

Chair of Governors / Chair of Appeal Panel

**To be completed by the Chair of Governors or Chair of Appeal Panel if Head Teacher Application, with a copy to the School's HR Adviser and returned to the employee.**



## APPENDIX G

# Flexible working notice of withdrawal of application

Date \_\_\_\_\_

Dear \_\_\_\_\_,

I wish to withdraw my application to work flexibly which I submitted to you on \_\_\_\_\_.

I understand that I will not be able to make another application until twelve months from the above date.

Yours sincerely,

To be completed by the employee, with a copy to the School's HR Adviser and Head Teacher or Chair of Governors if Head Teacher Application

## Confirmation of withdrawal of application

Date \_\_\_\_\_

Dear \_\_\_\_\_,

I confirm I have received notice that you wish to withdraw your application for flexible working which you submitted to me on \_\_\_\_\_.

In accordance with the Flexible Working (Procedural Requirements) Regulations you will not be able to make another application until 12 months from the above date.

Yours sincerely,

To be completed by the Head Teacher or Chair of Governors if Head Teacher Application, with a copy to the School's HR Adviser and returned to the employee.

APPENDIX H

# Flexible working extension of time limit form

Date \_\_\_\_\_

Dear \_\_\_\_\_,

In accordance with the Flexible Working (Procedural Requirements) Regulations I wish to extend the amount of time to respond to your request to work flexibly in order to allow me to:

- Arrange a meeting to discuss your application (28 days)\*
- Facilitate a trial period of the requested working arrangements\*
- Notify you of my decision regarding your application (14 days)\*
- Arrange a meeting to discuss your appeal (14 days)\*
- Notify you of my decision regarding your appeal (14 days)\*

I wish to extend the time limit to \_\_\_\_\_ days. This means that I will have until \_\_\_\_\_ to complete the necessary action. I need the time for the following reasons:

- 
- 
- 

If you agree to this extension, please complete the slip below and return to me.

Yours sincerely,

\*delete as appropriate

To be completed by the Head Teacher or Chair of Governors if Head Teacher Application, with a copy to the School's HR Adviser and returned to the employee.

## Employees' agreement to time extension

I accept your request to extend the time limit to \_\_\_\_\_.

<b>Signed</b>	<b>Date</b>
---------------	-------------

To be completed by the employee, with a copy to the School HR Adviser and returned to the Head Teacher or Chair of Governors if Head Teacher Application.