



**KALEIDOSCOPE**  
Multi Academy Trust

# **Flexible Working Policy and Guidance**

**Approved by:**  
**Next Review:**

Kaleidoscope Trust Board  
October 2024

**Date:** October 2023

# FLEXIBLE WORKING POLICY AND GUIDANCE

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## FLEXIBLE WORKING POLICY

### 1.0 POLICY STATEMENT

- 1.1 Kaleidoscope MAT (KMAT) recognises the value of the knowledge, experience and skills of all its staff and the contribution which enabling flexible working patterns can make in helping the school retain valued staff.
- 1.2 KMAT and its schools understand that individuals may wish to vary their working patterns to suit their needs and enabling flexible working patterns can enhance employee choice and work-life balance. KMAT is committed to exploring with staff a range of options for flexible working according to this procedure which is in line with the relevant provisions in the Employment Rights Act 1996 and regulations made under it, the Children and Families Act 2014 and with the *ACAS Code of Practice for Handling Requests to Work Flexibly in a Reasonable Manner*.

### 2.0 SCOPE

- 2.1 This policy applies equally to all staff in both teaching and non-teaching roles, who meet the following eligibility criteria;
- Be an employee not working on a supply, casual or agency basis;
  - Have 26 weeks continuous service with the School
  - Have not made an application to work flexibly within the last 12 months.

### 3.0 PROCEDURE

- 3.1 This procedure should be followed if an employee applies to work on a flexible basis. A summary of this procedure is outlined in the attached flowchart, Appendix 1. All requests, including any appeals, must be considered and decided upon within the statutory period of three months from first receipt unless the School and the employee agree in writing to extend this period.
- 3.2 Until government guidance relating to the coronavirus pandemic changes, the procedure in this policy should be conducted in line with the safe working practices in the school including social distancing measures where meetings are necessary and consideration should be given to holding meetings remotely.
- 3.3 If an employee wishes to change their working pattern they must write to the Headteacher/Executive Headteacher requesting to work flexibly. **The applicant should use the model application form, Appendix 2.** The request should:
- be in writing (e-mails are acceptable);
  - state the change to working hours or work pattern they are seeking and when they would like it to take effect;
  - explain what effect the proposed change would have on the School / their work area and how in their opinion it might be dealt with;

- state if they are making their request in relation to the Equality Act 2010 and why (for example, as a 'reasonable adjustment' for a disability);
  - state whether they have made a previous application and if so, when and
  - be signed and dated.
- 3.3.1 The School must consider any written requests it receives. Having received a request, the Headteacher/Executive Headteacher should acknowledge receipt of the application in writing and should give the employee a copy of this procedure and the forms.
- 3.5 The Headteacher/Executive Headteacher will consider the application. If the Headteacher/Executive Headteacher is happy to accommodate the requested change in hours and / or work pattern, they may approve it without meeting the employee. In this event, approval will be notified to the employee in writing **within 28 days of the receipt of the written request for Flexible Working** using the appropriate model application form, see Appendix 3.
- 3.6 If the Headteacher/Executive Headteacher considers it necessary to meet with the employee to discuss their application prior to making a decision, they should do so **within 28 days of receiving a written request for flexible working**. The employee can be accompanied by a work colleague or a local trade union representative and should be informed of this prior to the meeting.
- 3.7 The Headteacher/Executive Headteacher should consider the request carefully looking at the benefits of the requested change for the employee and the School and weighing these against any adverse impact on the School of implementing the change. In considering the change the School must ensure that they are fair with all employees and do not discriminate.
- 3.7 The Headteacher/Executive Headteacher must inform the employee of their decision. *If a meeting has taken place, within 14 days of the date of the meeting* the Headteacher/Executive Headteacher will notify the employee in writing of their decision using the appropriate model application form, see Appendix 3 and 4, making sure that the request is responded to in full.
- 3.9 If the request is approved, the notification will include a description of the new working arrangement and state the date on which it will take effect and will confirm that the change constitute a permanent change to the employee's contract of employment and the applicant will not have the right to revert back to their previous working arrangement.
- 3.10 The Headteacher/Executive Headteacher will, wherever necessary, discuss with the employee how and when the changes might best be implemented.
- 3.11 **If the flexible working request is not approved, the Headteacher/Executive Headteacher must consider whether any alternative is possible and put this to the employee in writing as a counter proposal.** Where a request is not approved, the written notification to the employee must state the statutory business grounds for refusing the application and provide details of the employee's right to appeal. The decision should be dated.

3.12 The statutory business grounds upon which a flexible working request may be refused are:

- the burden of additional costs;
- an inability to reorganise work among existing staff;
- an inability to recruit additional staff;
- a detrimental impact on quality;
- a detrimental impact on performance;
- detrimental effect on ability to meet customer demand;
- insufficient work during the periods the employee proposes to work
- a planned structural change.

3.13 **Trial Period** - There is scope within this procedure for both parties to agree to trial the flexible working arrangement being requested to establish whether the new working arrangement is workable. Any trial period will be agreed by the Headteacher/Executive Headteacher and will be confirmed in writing to the employee setting out the date on which the trial period commences and ends (see Appendix 3 – Flexible Working Request – Notification of Approval or Trial Period Form). The effect of the trial period is to defer a decision being made in respect of the flexible working request until the end of the trial period. For this reason and to ensure that the statutory requirement to respond to a flexible working request within 3 months of the date of the request, the School must ensure that written agreement has been obtained from the employee to extend this statutory timescale to allow for the trial period. At the end of the trial period the Headteacher/Executive Headteacher will review the flexible working request in the light of the trial period. Possible outcomes are:

- Flexible working request is approved in full on a permanent basis;
- Flexible working request is not approved and the employee reverts back to their substantive working arrangements which applied immediately before the trial period.

3.14 If the flexible working request is not approved following a trial period, the Headteacher/Executive Headteacher must consider whether any alternative is possible and put this to the employee in writing as a counter proposal. Where a request is not approved, the written notification to the employee must state the statutory business grounds (see para.3.11) for refusing the application and provide details of the employee's right to appeal. The decision should be dated.

3.15 **Within 14 days of the notification of the Headteacher/Executive Headteacher decision**, the employee may lodge a written appeal to the governor's appeal panel normally of three governors. The Headteacher/Executive Headteacher should attend in order to share the management perspective on the request with the panel as necessary. A representative of Somerset HR Advisory Service will attend on request.

3.16 The appeal should either be on the grounds that there is new information that was not available to the Headteacher/Executive Headteacher the time they

refused the request or that the employee believes the application was not handled reasonably in line with this Policy.

3.17 **Within 14 days of receiving an appeal**, the appeal panel should hold a meeting with the employee to discuss the appeal. The employee can be accompanied to the Appeal by a work colleague or a trade union representative. A copy of the protocol for a Flexible Working Appeal meeting is attached as Appendix 6. Prior to the appeal hearing. Governors hearing the appeal should be provided with the following documents:

- a copy of the employee's written Flexible Working Request;
- a copy of the Headteacher/Executive Headteacher's written response;
- a copy of the Flexible Working Policy; and
- a copy of any new information submitted by the employee in support of their appeal.

The employee and the Headteacher/Executive Headteacher should also have a copy of the above documents to be considered at the appeal hearing.

3.18 **Within 14 days of the appeal panel meeting**, the appeal panel should write to the employee to advise them of the outcome of the appeal.

3.19 **Extensions to the above time limits:** there are two circumstances where the above time limits can be extended by mutual agreement:

- in exceptional circumstances only, for example, when more time is needed to explore an alternative working pattern; and
- If the Headteacher/Executive Headteacher or relevant members of the governing body have unplanned absence (for example due to sick leave).

3.20 All requests, including any appeals, must be considered and decided upon within three months from first receipt unless the School agrees to extend this period with the employee.

3.21 If the School arranges a meeting to discuss the application or the appeal and the employee fails to attend both this and a rearranged meeting without a good reason, the School will consider the request withdrawn, and will notify the employee accordingly.

3.22 A written record should be kept of any meeting held with the employee under this Policy. The panel meeting should be minuted in the usual way. The written submissions and papers, the decisions and the reasons for them should be retained.

3.23 Where exceptional circumstances apply and following consultation and agreement from all the parties, meetings may be conducted remotely using information technology and consideration should be given to doing so. The appeal hearing may be recorded electronically by the note-taker to provide a back-up for minute taking provided all parties present at the hearing give their

agreement to this at the start of the meeting. The electronic recording must be deleted by the note-taker promptly following the meeting once the minutes have been finalised. Confirmation that the deletion of the electronic recording of the minutes has taken place must be provided in writing by the note-taker to the Chair of the Panel.

#### **4.0 CONFIDENTIALITY AND RECORDS**

4.1 All individuals involved in the flexible working application process have a responsibility to maintain the confidentiality of personal information in their possession.

4.2 All records will be kept confidential, used and retained in accordance with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

#### **5. OTHER RELEVANT POLICIES/GUIDANCE**

- Managing Attendance Policy
- Family Leave Policy
- Leave of Absence Policy
- Health and Safety Manual

*All our policies and guidance can be found at [www.supportservicesforeducation.co.uk](http://www.supportservicesforeducation.co.uk)*

## **FLEXIBLE WORKING GUIDANCE**

### **1.0 PURPOSE**

- 1.1 The purpose of this guidance is to provide information about the laws which regulate flexible working requests and to provide guidance for schools on the good practice measures that will assist them to comply with those laws.
- 1.2 By taking reasonably practicable steps, particularly of the kind recommended below, schools can significantly promote equal opportunities in employment and, at the same time, reduce the possibility that unlawful discrimination or other breaches of statutory employment law may occur.

### **2.0 BENEFITS OF FLEXIBLE WORKING**

- 2.1 The benefits of flexible working include the retention of valued employees; reduction in staff turnover, reduction in recruitment and training costs; reduction in sickness absences, unplanned absences and supply cover costs; increased staff morale and motivation; greater staff loyalty and commitment; enhanced reputation as a good employer; and greater flexibility to deal with change.

### **3.0 THE LEGAL POSITION**

- 3.1 Every employee has the statutory right to ask to work flexibly after 26 weeks employment service.
- 3.2 An employee can complain to an Employment Tribunal that there has been a breach of the statutory right to request flexible working either because their employer's decision was based on incorrect facts or an appropriate procedure has not been followed (although there is no longer a statutory procedure, the content of the Acas Code of Practice will be taken into account by Employment Tribunals).  
In addition, given that flexible working requests are often made by:

- women, who still traditionally assume most responsibility for child caring
- women returning from maternity leave, and
- those caring for elderly and/or disabled adults

an employer who unreasonably refuses a request, could be exposed to claims of:

- indirect discrimination
- part time worker discrimination
- associative discrimination
- constructive dismissal.



- 3.3 Therefore in considering the reasons for refusing a flexible working request, the school must be careful not to discriminate directly or indirectly against particular employees because of their protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation).
- 3.4 To avoid discrimination, inflexible working arrangements must be *objectively justified*: meaning that you must seek to attain an appropriate balance between your school's legitimate needs and aims and those of your employee.
- 3.5 For example, a flexible working request is made by a female teacher who has returned from maternity leave and who is juggling work and childcare. The school where she is employed upholds a rigid policy of only employing full time teachers. The employee's request to work part time is therefore refused. The risk here is of a claim for indirect discrimination, since the practice of only allowing full-time work appears to be disadvantaging one section of the workforce more than others, in this case women because it is well evidenced that they tend to have more caring responsibilities. The school can justify their approach if they can show that this practice is serving a legitimate aim but only if that practice (i.e. only employing full time teachers) is a proportionate means of achieving that legitimate aim.
- 3.7 In this example, were the employee to complain to an Employment Tribunal of indirect sex discrimination, a Tribunal would scrutinise carefully the reasons behind not granting the flexible working request and the facts upon which these reasons are based. It would check whether the school had considered other ways to satisfy the school's legitimate business aim while having a flexible workforce and whether it had considered less 'blanket' alternatives.
- 3.8 A claim must be presented to the Tribunal within three months of the procedural breach or within three months of being notified of the appeal decision.

#### **4.0 LEGAL REMEDIES**

- 4.1 Where an Employment tribunal finds the employer in breach of the provisions of Employment Rights Act 1996 and the Flexible Working regulations made under this Act (as amended by the Children and Families Act 2014), it may order the employer to:
- reconsider the application
  - pay up to 8 weeks' pay (for the current cap on this, please see the GOV.UK website).
- 4.2 Where the Tribunal finds that the employer has discriminated against an employee, the remedy can be substantial and could include:
- loss of earnings (if that employee resigns and claims that they were constructively dismissed due to a breakdown of trust and confidence), and

- injury to feelings for the hurt caused by discrimination of between £660 and £33,000 (depending on how serious the tribunal considers the injury to feelings to be).

## 5.0 TYPES OF FLEXIBLE WORKING ARRANGEMENTS

5.1 Some of the most common types of flexible working arrangements that are used in workplaces are described below. This is not an exhaustive list. In addition, schools and employees may consider combining one or more of the options as a means of attaining the most satisfactory work/life balance. For example, together you might agree that the employee may work part-time, with flexi-time hours and with some time spent working at home.

### 5.2 Flexi-time working

5.2.1 Flexi-time refers to a flexible pattern of working around a compulsory “core” working period which allows employees to vary their start or finish times. For example, employees may be required to work a standard 37-hour week and during a “core” period between 10.00am to 4.00pm. But, they may start work at anytime between 8.00am and 10.00am and finish work at any time between 4.00pm and 6.00pm. A scheme is also likely to make particular arrangements for “balancing” the hours worked in a given period, and for “banking” hours which might then be taken as whole or half days off.

### 5.3 Part-time working

5.3.1 A part-time worker is simply an employee who works less than the standard number of hours in the working week. For example, if in a particular workplace the standard working week is 37 hours long, then a part-time worker is any employee whose contract of employment requires them to work less than that, e.g. 30 or 25 or 20 or 15 hours, etc.

### 5.4 Job-sharing

5.4.1 Job-sharing is a variation of part-time working where a particular post is split, usually between two post-holders. For example, one post-holder might work mornings, while the other works afternoons; or, the first might work Mondays and Tuesdays, while the other works Wednesdays to Fridays.

### 5.5 Working from home

5.5.1 Working from home for all or part of the week may be a practicable option in some circumstances in the case of some roles **(for example, in a school, some roles may require the employee’s presence in the school as their responsibilities include teaching, supervising or otherwise working directly with children)**. It is important for the school and the employee to consider a number of factors before using this method of work, such as health and safety and data protection issues, including the provisions of the General Data Protection Regulation (GDPR).

## 5.6 School term-time working

5.6.1 In this form of part-time working the employee only works (full or part-time) during the months when pupils are attending school. Consequently, the employee will not work during the school holidays.

## 5.7 Compressed hours

5.7.1 In this form of working, the employee might work the standard number of hours per week (e.g. 37 hours), but does so over 4 days instead of the normal 5 days. Another variation might be a “9-day fortnight”. It is important for the school and the employee to consider a number of factors before using this method of work, such as the issue of rest breaks and other compliance with the Working Time Regulations (1998). For further information on the Working Time Regulations please see the GOV.UK website.

## 5.8 Annualised hours

5.8.1 Under an annualised hours scheme, an annual total of hours is agreed, and these are worked in variable quantities over the year by agreement between the school and the employee. These kinds of schemes are most common in relation to roles in which there are peaks and troughs of demand.

## 6.0 CONSIDERING FLEXIBLE WORKING REQUESTS

6.1 The law outlines the factors that Employment Tribunals will take into account when judging cases involving a claim for breach of a statutory right to make a request for flexible working or a discrimination claim and these can be translated into some “*do’s and don’ts*” which may assist you to comply with the law when considering individual requests.

### 6.2 “Do’s”

- Follow the flexible working policy and procedures that you have established and keep a written record of the decision-making process.
- Apply the policy consistently and fairly to all employees who apply for flexible working arrangements.
- Consider the request at the appropriate time, i.e. when a request is made and within the time-limits set down within the policy and procedures, and do not leave it until after a grievance or complaint is lodged.
- Keep an open mind and give serious and genuine consideration to the employee’s request.
- Consider any alternative arrangements that may be wholly or partially suitable too. Even if you cannot grant an employee’s request in full, arrangements which partially satisfy the request may have a less discriminatory or adverse impact on the employee and may be easier to justify than stricter, more inflexible arrangements.
- When weighing up the various factors and options, check that the information upon which the decision will be based is factually correct. For example, if you

are worried that a part-time working proposal may lead to some gaps in service coverage during particular hours of the day, you should check or test to confirm that this will be so rather than rely on a guess or presumption. Or, if you believe that you will be unable to recruit another employee to cover for gaps in service, you should have the correct factual evidence to show why this is so.

- When weighing up the various factors and options (benefits against any potential negative impacts):
  - give considerable weight to any express commitment to promote flexible working practices and/or equal opportunities.
  - give considerably more weight to those options that are likely to have no, or less, adverse impact on the employee compared to those which you consider to be merely convenient to the school.
  - give considerably more weight to those options that are genuinely necessary for the operation of the school and the education and welfare of the pupils compared to those that are merely convenient.
- If you accept the employee's request, or accept it with modifications, you should discuss with the employee how and when the changes might best be implemented and ensure that all parties are clear as to what is expected. (Implementation issues might include information sharing and planning considerations, ensuring consistency and attendance at meetings.)

### **6.3 “Don'ts”**

- Don't start the process with a closed mind towards the employee's proposals.
- Don't refuse to consider requests solely based on legal technicalities alone – it is always better to consider the request by seeking to balance the substantive factors in question (i.e. your needs and those of the employee).
- Don't assume that because a particular option is more convenient for the school that it is genuinely necessary.
- Don't treat cost or expense as the sole deciding factor; however, it is legitimate to consider the relative financial costs of various options along with other factors
- Don't discriminate against employees on any of the statutory anti-discrimination grounds. For example, do not operate a practice of only granting the requests of women employees who need time off to attend to their caring responsibilities but of rejecting the requests of men who have similar needs.

### **6.4 The need for careful consideration**

- 6.4.1 As the list of “*do's and don'ts*” indicate, it will not be sufficient for you merely to cite one of the ‘business reasons’ (see para 8.1) as a justification for refusing a flexible working request. An employee may have a right to complain to an Employment Tribunal where your reasons will be closely scrutinised to test, whether, depending on the nature of the complaint, they are based on incorrect facts and/or whether they are unlawfully discriminatory and/or objectively justified.

## **7.0 DISABLED EMPLOYEES AND FLEXIBLE WORKING**

- 7.1 There are circumstances in which disabled employees may require flexible working arrangements and where their employers may be legal under a duty to provide them.
- 7.2 These are situations in which the arrangements (e.g. policies, practices and procedures) applicable to a disabled employee places them at a substantial disadvantage compared to non-disabled employees. In such situations the school will be under a *duty to make reasonable adjustments*, meaning that you must take such steps that are reasonable in the circumstances to eliminate the disadvantage.
- 7.3 The duty envisages, for example, that, depending on what is reasonable in the circumstances, you might alter a disabled employee's working hours, place of work or allow them to take time-off for rehabilitation, assessment or treatment. Therefore, the duty to make reasonable adjustments is also in effect a duty to provide (reasonable) flexible working arrangements for the disabled employees who need them.
- 7.4 This duty is imposed on employers by the Equality Act 2010. Where the duty applies, a failure to comply with it is an act of unlawful discrimination against the disabled employee concerned.

## **8.0 BUSINESS REASONS TO CONSIDER IN A REQUEST TO WORK FLEXIBLY**

- 8.1 Any refusal to grant a flexible working request must relate to one of the following business reasons, as set out in the relevant legislation.
- Burden of additional costs
  - Inability to reorganise work among existing staff
  - Inability to recruit additional staff
  - Detrimental impact on quality
  - Detrimental effect on ability to meet customer (or client) demand
  - Detrimental impact on performance
  - Insufficient work during the periods the employee proposes to work.
  - Planned structural changes
- 8.2 You must also give the employee sufficient explanation about why the relevant reason applies. You should explain what steps you have taken to try to accommodate the request and why, despite doing your best to accommodate the employee's request, you could not grant it.

8.3 While a Tribunal does not have the power to look behind your reasons in respect of any claim for a breach of the statutory right to request flexible working, it will examine these reasons very closely if a claim is brought under the discrimination legislation.

#### **8.4 The burden of any additional costs is unacceptable to the organisation**

8.4.1 In considering this, the school should balance any additional costs against any potential savings from the proposed change to the employee's working arrangements.

8.4.2 *Example: Two teachers apply for flexible working at the same time. In line with the school's policy, the school seriously considers their request. Both teachers want to work three days a week and whilst the school is happy to agree the request in principle the school is unable to afford the costs as this will mean paying for 1.2 FTE teachers rather than 1 FTE. The Headteacher / Governor's Panel discusses the alternative of each teacher working 2.5 days each with the two teachers, but they are not prepared to change their requests. In the light of this, the school turns down the request for flexible working.*

#### **8.5 An inability to reorganise work among existing staff**

8.5.1 The school should consider the cost of recruiting additional staff against the potential cost of losing the existing member of staff making the request and should also consider talking to the relevant staff group about any reorganisation of work before coming to a decision where this would be appropriate.

8.5.2 *Example: A teacher with specific whole school teaching and learning responsibilities which involve the exercise of specialist skills wants to reduce their hours and puts in a request. The Headteacher / Governor's Panel considers whether it would be practical to assign some of the responsibility to other teachers, but there is no-one on the school staff with the experience or the expertise, so sharing the responsibility would be very difficult. The Headteacher / Governor's Panel therefore concludes that agreeing to the request would mean that teaching and learning responsibilities would not be discharged effectively and therefore reluctantly turns the request down.*

#### **8.6 Inability to recruit additional staff**

8.6.1 *Example: The teacher in the example above appeals against the original decision by the Headteacher / Governor's Panel on the basis that the option of recruiting a job-share partner had not been considered. The Appeal Panel agrees to the request, on condition that that a second teacher can be recruited to share the teacher's class role and their teaching and learning responsibility. Unfortunately, it is not possible to recruit someone with the necessary specialist skills and experience who is also willing to work the required work pattern. The school therefore turns down the teacher's request.*

## **8.7 The employer considers the change will have a detrimental impact on quality**

8.7.1 The school should take into account the skills and potential of other employees when considering this reason. With training many staff can acquire new skills.

8.7.2 *Example: The school is a small primary which has only one experienced teacher on the staff. The experienced teacher wants to reduce their hours and asks to do so under the right to request flexible working. The other teachers are all still new and relatively inexperienced and the Headteacher / Governor's Panel is concerned that the school will be unable to tackle some of the challenges it faces, especially in light of a recent Ofsted report, if the school does not ensure that at least one experienced teacher is present throughout the school week. Accordingly, the school agrees to the request but on condition that it is possible for the school to recruit an experienced teacher as a 'job-share' partner for the teacher who has requested the reduction in hours. Unfortunately, the school is unable to recruit an experienced teacher to the job-share role. The school therefore decides to turn the request down but also offers to reconsider the request after a further year. Subsequently, the success of a CPD programme for the new teachers and progress against whole school objectives allows the school to approve the reconsidered request.*

## **8.8 The employer considers the change would have a detrimental effect on the business' ability to meet customer demand**

8.8.1 When considering the impact on the school of a flexible working arrangement, the school can trial an arrangement for a fixed period to see if it is sustainable over the longer term

8.8.2 *Example: A secondary school receives a request from a Learning Resources Officer to work compressed hours. Working four longer days and freeing up one day a week will allow them to undertake a course of part-time study. The school is concerned that the Learning Resources Officer will not be available to deal with pressing issues one day a week. However, the school values the LRO and wants to retain them and to support their CPD. The school agree to trial the arrangement for 10 weeks. It transpires that the LRO's extended hours allow them to serve pupil's needs after school hours on the other four days. Other staff have been successfully handling routine matters in the LRO's absence and in practice the LRO has been willing to be contacted by phone if an urgent issue does arise. After the successful trial, the school agrees to the request for the length of the study course.*

## **8.9 Detrimental impact on performance**

8.9.1 It should be borne in mind that performance can refer to the performance of the individual employee, the work group / team to which they belong or of the school as a whole.

8.9.2 *Example: A member of the support staff has been promoted to manage a team of office staff (where there have been problems of absenteeism, bullying and low performance) alongside their other duties. They were recruited to rebuild and motivate the team. After six months they have established themselves as the manager of the team and have begun to rebuild the team. They then make a request to work from home for a significant part of the week. The Headteacher / Governor's Panel considers the request but decides that, at least for the next 12 months, the manager needs to be visible and present five days a week to tackle inappropriate behaviour when it occurs and to deal with work issues immediately. Accordingly, the school turns the request down.*

#### **8.10 There is insufficient work during the periods the employee proposes to work**

8.10.1 *Example: A member of the office staff, who works two and a half hours a day in the morning, asks to change their hours so that they start an hour and a half later. The most important part of their role is to take phone calls from parents about students who will not be attending school and to contact parents whose children have not arrived and from whom no phone call has been received. The bulk of the phone calls are received in the first hour and a half the employee is in the Office. The school looks at the call pattern / pattern of activity at reception and decides that there would be insufficient demand for their role if they started later and agreeing the request would reduce cover at the peak time (i.e. at the beginning of the school day) and so turns the request down.*

#### **8.11 Planned structural changes, for example, where the employer intends to reorganise or change the business and considers the flexible working changes may not fit with these plans**

8.11.1 *Example: Weaknesses in leadership have been identified in a school and the school is consulting on a reorganisation designed to reinforce the Leadership Team and the skills available to it. A key, high-performing member of the Leadership Team, who has skills in the areas where weaknesses have been identified, requests a reduction in hours. The school believes that this would not fit with the re-organisation plans the school has, and therefore turns down the request.*

### **9.0 AGREEING TO THE ARRANGEMENTS ON A TRIAL BASIS**

9.1 If the school is not sure whether the working hours or pattern requested are sustainable for the school the arrangements can be agreed for a trial period to see whether they would be sustainable in the longer term. The arrangements can then be reviewed at the end of the specified period and a discussion take place between the Headteacher/Executive Headteacher Governors and the employee with a view to establishing whether the arrangements are working for the employee and the school. If they are, and the employee agrees, the arrangements can then be made permanent.

9.2 In any event, it is recommended that once a new working arrangement is put in place, the school and the employee review how the arrangement is working



and make any adjustments necessary to ensure it is working effectively for all parties.

## **10.0 HANDLING REQUESTS WHERE THERE IS MORE THAN ONE REQUEST TO WORK FLEXIBLY**

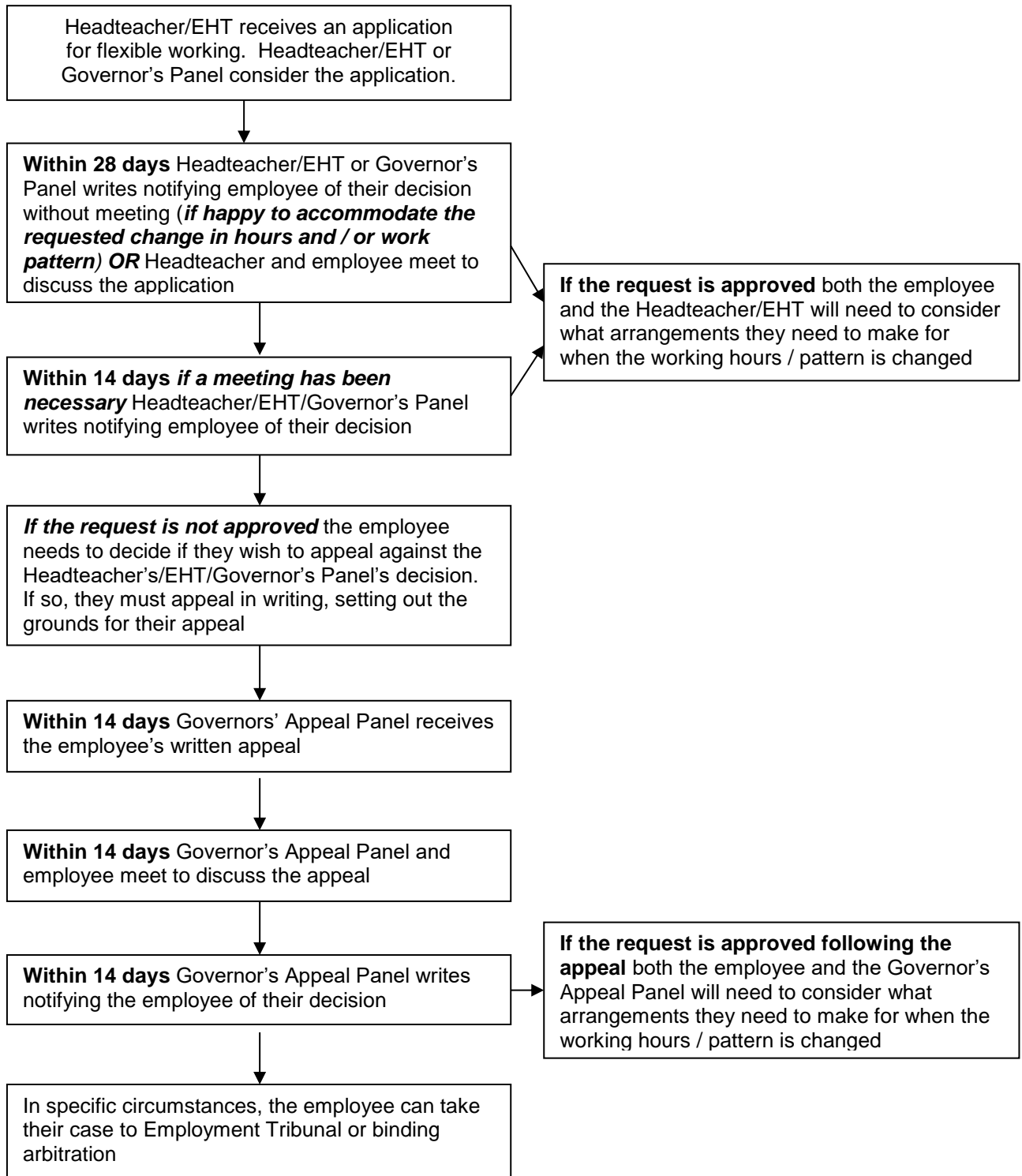
- 10.1 On occasion, the school may receive more than one request to work flexibly from different employees. Where this happens, it may be possible to grant all the requests. However, before doing so the school will need to look closely at the overall impact this would have on the school.
- 10.2 Having considered and approved the first request the Headteacher/Executive Headteacher/Governor should remember that the position /context has now changed as a result and that this can be taken into account when considering the second request.
- 10.3 The school is not obliged to make value judgements about the most deserving request. Instead, the school should consider each request on its merits with regard to its likely positive and negative impacts on the school and the employee should it be agreed. If there is more than one request being made, the school may want to have a discussion with the relevant employees to see if there is any room for adjustment or compromise before coming to a decision.
- 10.4 The school may also receive a new request when one or more flexible working arrangements have already been agreed. A similar arrangement already in place operating successfully may be an argument in favour of any new request. However, if the school believes, based on evidence, that due to the number of flexible working arrangements already in place, implementing an additional flexible working arrangement is likely to have an adverse impact on the school for one or more of the valid business reasons, they could choose to refuse the request.
- 10.5 If the school is unable to approve a request because a number of other employees are already working flexibly within the school and therefore any further flexible working arrangements will have a negative impact on the school, it would be good practice to *consider* calling for volunteers from existing flexible working employees to change their contracts back to other arrangements thereby creating capacity for granting new requests to work flexibly. However, this would need to be handled sensitively and may not always be considered appropriate.

\* \* \* \* \*

**Schools HR Advisory Service:** If you have a specific flexible working request that you would like to discuss or simply have a general query regarding flexible working, why not give us a call. We will be pleased to help.

## APPENDICES

## APPENDIX 1 – SUMMARY FLOW CHART





## Flexible Working Application Form

### Note to the applicant

You should use this form to make an application to work flexibly. Before completing this form, you might want to read the ACAS guide *Handling Requests to Work Flexibly in a Reasonable Manner* available from [www.acas.org.uk](http://www.acas.org.uk)

**[Include if the school wishes to allow requests from employees with less than 26 weeks continuous service to be considered]** You may also use this application form if you wish to make a request to change your working arrangements but do not meet the eligibility requirements. Although you do not have a right to make a request in law, any request will still be considered by the school under the same procedure.

You should note that it may take up to three months to consider a request. (Any extension to this period will be agreed with you by the school.) You should therefore ensure that you submit your application to the Headteacher well in advance of the date you wish the request to take effect.

It will help the school to consider your request if you provide as much information as you can about your desired work pattern. It is important that you complete all the questions, as otherwise your application may not be valid. Once you have completed the form, you should immediately forward it to the Headteacher. You are advised to keep a copy for your own records. The School will then have 28 days after the day the application is received in which to either approve your request or to arrange a meeting with you to discuss your request.

If the request is approved, this will be a permanent contractual change to your terms and conditions and you will have no automatic contractual right to revert to your previous working arrangements.

If the request is not approved the school will consider whether it can accommodate any other change to your working arrangements and where this is possible will provide you with a counter-proposal for your consideration.

Alternatively, it may be agreed with you to 'trial' the working arrangements you have requested for a specific period. This may be appropriate where it is unclear whether the changes you have requested will meet the business needs of the School. Where a trial period is agreed this will be confirmed to you in writing and will have the effect of deferring a decision being made by the School until the end of the trial period. For this reason, where both parties agree to 'trial' the new working arrangements written agreement will be required

to extend the statutory three-month period within which the employer is obliged to respond to the employee.

### **Privacy Statement**

*The School is registered with the Information Commissioner's Office for the purposes of processing personal data.*

*The information you provide will be held and used in accordance with the requirements of UK and European data protection law. The information provided will form part of your personnel file, which, in accordance with Section 2 of the Limitation Act 1980, will be stored securely until six years after the termination of your employment period.*

*The processing of this information is lawful as it is in our legitimate interest to process it (GDPR Article 6 (1)(f)). It is in our legitimate interest because we need the information in order to implement a legitimate school policy and specifically in order to assess your application for flexible working.*

*If you have any questions or concerns about the way we process your personal data, please contact our Data Protection Officer through the School.*

### **Note to the Headteacher/Executive Headteacher's/Governor's Panel**

You have 28 days after the day you received this application in which to either agree to the request or arrange a meeting with the employee to discuss their request. You should confirm receipt of this application using the attached acknowledgement slip and should also provide the applicant with a copy of the procedure and relevant forms.

Please refer to the School's Flexible Working Policy for further information.

1. Personal Details (*note: to add text to the boxes, right click inside the box and select 'add text'*)

Name:

Job Title:

Line Manager:

**Eligibility requirements**

To make an application for flexible working under the statutory right in legislation, you must meet the following criteria:

- Be an employee not working on a supply, casual or agency basis;
- [**Academies**] Have 26 weeks continuous service with the School
- Have not made an application for flexible working within the last 12 months.

I meet the above statutory eligibility requirements to apply for flexible working in law  
**YES/NO** (please delete as appropriate)

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

2b. Describe the working pattern you would like to work in future (days/hours/times worked)  
(please state if you would like this work pattern to be temporary, and if so, for how long):

(you may continue on a separate sheet if necessary)

2c. I would like this working pattern to commence from: Date:

3. Impact of the new working arrangement

I think this change in my working pattern will affect the school and work colleagues as follows:

4. Accommodating the new working arrangement

I think the effect on the school and work colleagues can be dealt with as follows:

If you are making this request in relation to the Equality Act 2010 please state this and the grounds:

**I consent to the processing of the data I have disclosed on this form.**

Name:

Date:

**NOW PASS THIS APPLICATION TO YOUR HEADTEACHER/EXECUTIVE HEADTEACHER.**

---✂-----

Cut this slip off and return it to the applicant in order to confirm your receipt of their application.

Headteacher's/EHT's Confirmation of Receipt (to be completed and returned to applicant).

Dear:

I confirm that I received your request to change your work pattern on:

Date:

***\*include only if meeting will take place***

\*I shall be arranging a meeting to discuss your application within 28 days following this date. You are welcome to bring a work colleague or Trade Union Representative to accompany you at the meeting.

Name:

Position:





## Flexible Working – Notification of Approval or Trial Period

### Note to the Headteacher/Executive Headteacher/Governor's Panel

You must notify the employee of your decision to approve their flexible working request within 28 days of the date the request was made using this form.

*N.B If you cannot approve the flexible working request you should explore alternatives to find a working pattern suitable to the needs of the school and the employee. If you are unable to offer any alternative working arrangement please complete the Flexible Working Rejection Form (Appendix 4). Please refer to the Flexible Working Policy and Procedure and accompanying guidance for the issues you will need to consider when rejecting a flexible working application.*

Dear:

*(note: to add text to the boxes, right click inside the box and select 'add text')*

Following receipt of your application *\*and our meeting on:*

Date:

***\*include only if meeting has taken place***

I / We have considered your request for a new flexible-working pattern.

- I am / We are pleased to confirm that we have approved your flexible working application.
- I am / We have agreed to trial the working arrangements you have requested between the dates specified below. Your application will be reviewed at the end of this period at which time you will be notified in writing of the Head teacher/Head of School decision regarding your flexible working request. If at the end of your 'trial period' your request is not approved you will revert to your normal working arrangements. Please note that the trial period can be terminated by either party by providing one month's notice.

Your new working pattern will be as follows:

Your new working arrangements will begin from:  
*(where request is approved)*

Date:

Your trial period will run from and to:

Dates:

**Note to the applicant**

Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment and you have no right in law to revert to your previous working pattern. The exception to this is where it has been agreed by the School to 'trial the new working arrangements for a specific period. Please note that in agreeing to a trial period you are agreeing to an extension to the 3-month statutory time period for a response to your flexible working request. This extension is to allow for the trial of your new working arrangements to take place.

If you have any questions about the information provided on this form please contact your Headteacher/Executive headteacher/the Governor's Panel to discuss them as soon as possible.

Name:

Date:

Position:



## Flexible Working Application Rejection Form

### Note to the Headteacher/Executive Headteacher/Governor's Panel

You must inform the employee of your decision **within 14 days of the date of your meeting with the employee** using this form. Before finalizing your decision, you must ensure that full consideration has been given to the flexible working application. The refusal of the request must be for one of the valid 'business reasons' and these should be stated together with an explanation why the reason(s) apply/applies in the circumstances. Please refer to the School's Flexible Working Policy and Procedure and accompanying guidance.

Dear:

*(note: to add text to the boxes, right click inside the box and select 'add text')*

Following receipt of your application and our meeting on:      Date:

I / We have considered your request for a new flexible working arrangement.

I am / we are sorry but I am / we are unable to accommodate your request for the following business reason(s):

The reason(s) apply in the circumstances because:

(You should explain why any other work patterns you may have discussed at the meeting are also inappropriate. Please continue on a blank sheet if necessary).

If you are unhappy with the decision you may appeal against it. Details of the appeal procedure are set out below.

Name:	<input type="text"/>	Date:	<input type="text"/>
Position:	<input type="text"/>		

## The Appeal Process

### To the applicant

If the School does not approve your request for flexible working, you have the right to appeal against the decision. If you wish to appeal, you must write to the Headteacher / the governor's panel, setting out the grounds for your appeal, within 14 days of receiving written notice of their decision. The appeal should either be on the grounds that there is new information that was not available to the Headteacher/EHT/Governor's Panel when they made their decision or that the employee believes the application was not handled reasonably in line with this Policy.

Your appeal will be heard by a panel of normally three governors within 14 days of receipt of your written notification of appeal. You will receive written notification of the outcome of your appeal within 14 days of the date of your appeal meeting.

*N.B. The time limits specified can be varied through mutual agreement.*

### To the Headteacher / Executive Headteacher / Governor's Panel

If you reject the applicant's request for flexible working, they have the right to appeal against your decision.

If the applicant appeals against your decision to refuse a request for flexible working, you should arrange a meeting with them to discuss the appeal within 14 days after receiving the appeal letter. This should be with an appeal panel of governors.

After the appeal meeting has been held, the Chair of the Appeal Panel should write to the appellant within 14 days to notify them of the outcome of the appeal.



**Flexible Working Application Rejection Form**

Dear [*name*]

**Flexible Working Request - Confirmation of Counter-offer**

Please find attached notification of my decision not to approve your flexible working request as set out in your Flexible Working Application dated [*date*].

Whilst I am unable to support your request I am pleased to be able to offer you the following alternative arrangement, which we have discussed and you agreed would be suitable. This is set out below:

**[insert detail of flexible working counter-offer and effective date of revised working arrangements)**

Your acceptance of this offer would constitute a permanent change to your contractual terms and conditions of employment with effect from [*insert effective date for changed working arrangements*]. All other terms and conditions remain unchanged. I would be grateful if you would confirm your acceptance of this offer by completing the slip below and returning it to [*name*].

If you have any queries regarding this offer please do not hesitate to let me know.

Yours sincerely

[*name/title*]

.....

**Flexible Working Request – Employee Confirmation of Acceptance of Counter-offer**

I confirm that I wish to accept/not accept (*delete as applicable*) the offer of alternative flexible working as set out below:

**[school to insert detail of alternative working arrangements offered]**

Name of employee: .....

Signed: .....

Date: .....

**Please return completed slip to the Headteacher/Governor’s Panel. Thank you.**



## PROTOCOL FOR A FLEXIBLE WORKING APPEAL PANEL

### Introduction

- The Chair introduces everyone.
  - Appeal Panel: Normally comprising 3 members
  - Headteacher / Chair of the original Governor's Panel
  - Employee
  - Employee's Advisor (Trade Union/ Professional Association representative/Work colleague)
  - Advisor to the Panel: [Member of the Schools' HR Advisory Service]
  - Note taker:
  
- The Chair explains the purpose of the Appeal Hearing. The Chair checks that everyone has received all the relevant documentation and whether any late submissions to be considered by the Appeal Panel for inclusion have been raised.
  
- The Chair states the running order for the Appeal Hearing.

### Employee Presents\*

[\* This can be the Employee or the TU representative]

- The Employee presents a summary of the reasons for the appeal
- The Employee/TU representative can call witness(es) (*where appropriate only*).
- The Headteacher/Executive Headteacher/ Chair of the original Governor's Panel can ask questions of any witness(es)
- The Panel can ask questions of any witnesses
- Employee / Representative can ask further questions of any witnesses (if any points need to be clarified)
- Any witness(es) then leave
- The Headteacher/Executive Headteacher/Chair of the Governor's Panel which originally considered the application for Flexible Working can question the Employee/TU representative
- The Panel can question the Employee/TU representative.

### **Headteacher / Chair of the original Governor's Panel Presents**

- The Headteacher/Executive Headteacher/Chair of the original Governor's Panel presents their response to the appeal on behalf of the school
- Witnesses can be called (*where appropriate only*).
- The Employee / their TU Representative can ask questions of any witness(es)
- The Panel can ask questions of any witness(es)
- Headteacher/Executive Headteacher/Chair of the original Governor's Panel can ask further questions (if any points need to be clarified)
- The witness(es) then leave
- The Employee or TU representative can then question the Headteacher / Chair of the original Governor's Panel on the response presented
- The Panel can ask questions of the Headteacher/Executive Headteacher / Chair of the original Governor's Panel

### **Employee presents their final summary**

### **Headteacher/Executive Headteacher/Chair of the original Governor's Panel presents their final summary**

### **Closed Session**

- The Employee, their TU representative and Headteacher/Executive Headteacher/Chair of the original Governor's Panel / Notetaker leave the Hearing at this stage in the proceedings.
- The Appeal Panel remains to discuss the information presented and to reach a decision. The HR Advisor also remains to offer any advice, if required. The Chair of the Appeal Panel records the decision.
- If the matter is likely to be dealt with relatively quickly the Employee and their TU Representative may choose to wait and hear the outcome verbally – a written response must still be sent afterwards.
- The Chair of the Appeal Panel writes to the employee confirming the decision.
- The decision of the Appeal Panel is final – there is no further right of Appeal.

*Tristan Coy*

November 2023