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Flexible Working Policy

Approved by:			
Responsible department:	Human Resources		
Last review date:	April 2024	Last reviewed by:	EducateHR Ltd
Last updated:	May 2024	Last updated by:	HR Manager
Next review due:	January 2025		

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1. Introduction

- 1.1 This policy serves to assist the principal/manager and governing body/trust board in making decisions about requests for flexible working in accordance with legal, contractual and moral obligations.
- 1.2 In accordance with legislation all requests for flexible working will be given serious consideration and will be dealt with in a fair and consistent manner.

2. Purpose and scope

- 2.1 This policy covers all staff working in the academy who are eligible (as defined below) to submit a request for flexible working in accordance with the Employment Relations (Flexible Working) Act 2023, applicable with effect from 6 April 2024.

3. Eligibility

- 3.1 All employees, from their first day of employment, have a statutory right to make a maximum of two applications for flexible working arrangements within any period of 12 months.
- 3.2 Eligible employees are entitled to request a change to the following:
 - the total number of hours worked (reduced, staggered or compressed etc)
 - the precise times at which they are required to work
 - the location in which the work is carried out (i.e. to work from home).
- 3.3 The facility to apply for flexible working does not provide an automatic entitlement to work flexibly as there may be circumstances when the employer is unable, for legitimate business reasons, to accommodate the employee's desired work pattern.

4. Timescale

- 4.1 Legislation requires that the process must be completed within two months of the request being received. This time limit includes any appeal process. However, if for any reason the request cannot be determined within two months the time limit may be extended, provided that the employee agrees to the extension.

5. Process

- 5.1 The initial onus will be on the employee to make a considered application in writing.
- 5.2 Under the relevant legislation the employee will only be able to make (a maximum of) two flexible working applications in any one year.
- 5.3 On receipt of the written application the academy (as the employer), usually represented by the headteacher or line manager, should (unless they feel able to accommodate the request without further consideration) arrange, without unreasonable delay (and usually within ten working days), to meet with the employee to discuss the request. (Consultation with the employee is a legal requirement before a flexible working application can be refused.)

- 5.4 The employee will be entitled, should they so wish, to bring a companion, who may be a work colleague or union representative, to this meeting.
- 5.5 The headteacher or line manager, in conjunction with the academy governing body, is responsible for ensuring that all flexible working requests are given serious consideration and that each is determined on its own individual merits and in accordance with the case put forward.
- 5.6 In every instance, the needs of the individual member of staff should be balanced against the needs of the academy.
- 5.7 All flexible working requests will be considered in a reasonable manner and will only be refused if there is a sound business reason (or reasons) for doing so.
- 5.8 Any such reason(s) must (to be regarded as legitimate) be from the following list:
- the burden of additional costs
 - an inability to reorganise work amongst existing staff
 - an inability to recruit additional staff
 - a detrimental impact on quality
 - a detrimental impact on performance
 - a detrimental effect on ability to meet customer demand
 - insufficient work for the periods the employee proposes to work
 - a planned structural change to the business.
- 5.9 The academy should then write to the employee (within ten working days of this meeting) to either agree to a new work pattern (and a start date for the agreed changes to take effect) or to provide a clear explanation of business reasons why the application cannot be accepted. Any business reason(s) cited must be from the list provided in the preceding clause.
- 5.10 Unless clearly specified otherwise, any changes to the terms of employment resulting from acceptance of a flexible working request will be permanent. However, before a final decision is reached there may be agreement to a trial period, the purpose of which is to establish whether a revised arrangement is working to the mutual satisfaction of both parties.
- 5.11 On the conclusion of the agreed trial period **either** the revised working arrangement is made permanent **or** the employee reverts to the previous (substantive) terms of their contract of employment.
- 5.12 Should the academy receive simultaneous requests (from more than one applicant) there is no requirement in law to make value judgements about the most deserving request. Each case will be considered on its own merits in relation to the business case and the possible impact of complying with any individual request.
- 5.13 In the event of having considered and approved a request for flexible working the academy, in the person of the headteacher (or line manager) considering such requests, should be mindful that the business context has now changed. Accordingly, this requires to be taken fully into account when assessing, against relevant considerations, any further request subsequently received.
- 5.14 The academy will exercise caution in order not to discriminate (either directly or indirectly) against any employee (for instance when dealing with requests from employees with childcare responsibilities or employees with protected characteristics (under the Equality Act 2010) such as disability, race etc).

6. Appeal process

- 6.1 The employee has a right to appeal formally against their employer's decision.
- 6.2 Any appeal must be lodged within five working days of the decision being notified to the employee (although at this juncture it may be helpful for the employee to speak informally to the headteacher (or line manager) about their decision as this may reveal new information or an omission before the next stage of the process is initiated).
- 6.3 An appeal should be based on either:
 - new information that was not available to the employer at the time the initial decision was made; **or**
 - a belief that the initial decision was unreasonable.
- 6.4 An appeal will be heard by an individual (or panel) who is (or are) independent of the initial decision-making process and is (or are) senior in authority to the person responsible for making the initial decision. The employee has the right to be accompanied in the appeal hearing by a work colleague or union representative.
- 6.5 The appeal decision should be communicated in writing (within ten working days of the appeal being heard) and is to be regarded as final. There is no recourse to the grievance procedure.

Appendix 1: Flexible working request flowchart

Step 1: Employer receives an application for flexible working

Step 2: Employer and employee meet to discuss the application*

Step 3: The employer writes to notify the employee of their decision

request is
ACCEPTED

The employer must consider what arrangements may need to be put in place when the working pattern is changed

request is
REJECTED

The employee needs to decide if they wish to appeal against the employer's decision. If so, they must appeal in writing, setting out the grounds for their appeal

Step 4: Employer receives the employee's written appeal

Step 5: Employer and employee meet to discuss the appeal

Step 6: The employer writes to notify the employee of their decision

appeal is
UPHELD

The employer must consider what arrangements may need to be put in place when the working pattern is changed

appeal is
REJECTED

In specific circumstances, the employee can take their case to an employment tribunal or binding arbitration

Note: although there is no longer a requirement to deal with individual stages of flexible working requests within a strict timetable there is a specific requirement within the legislation to handle such requests in a 'reasonable manner'. This is normally interpreted as including (as well as completing the process within a maximum of 2 months) the following elements:

- *assessing the advantages and disadvantages of the application*
- *holding a meeting to discuss the request with the employee (*although this step is not a requirement if the request is to be accepted)*
- *offering and completing an appeal process.*

Appendix 2: Flexible working request application form

Note to the employee

You can use this form to make an application to work flexibly under the right provided in law (Employment Rights Act 1996).

You should note that under the right it may take up to 3 months before consideration of the request need be completed (and this timescale can be extended by agreement). You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect.

It will help your employer to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be considered valid.

Once you have completed the form, you should immediately forward it to your line manager (you might want to keep a copy for your own records) who will then (within a reasonable period of time) arrange a meeting with you to discuss your request. If the request is granted, this will be a permanent change to your terms and conditions (unless otherwise agreed).

1. Personal Details

Name:

Post:

Line Manager:

To the employer

I would like to apply to work a flexible working pattern that is different to my current working pattern.

I confirm I have not made more than one a request to work flexibly under this right during the past 12 months.

Date(s) of any previous request(s) to work flexibly under this right:

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

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

4. I would like this working pattern to commence from (insert date):

Employee Signature: Date:

This form should now be passed to your employer

Note to employer:

You should meet with the employee (ideally within 10 working days of receiving their request) to discuss their application to work flexibly and clarify their understanding and expectations

Employer's confirmation of receipt (to be completed and returned to employee)

Date

Dear

I confirm that I received your request to change your work pattern on **(insert date)**

I have arranged a meeting on **(insert date)** at **(insert time)** to discuss the content of your request.

If you wish you may be accompanied by a colleague or your trade union representative.

Yours sincerely

Name (Manager):	Name (Employee):
Job title:	Job title:

Appendix 3: Flexible working request acceptance form

Note to the employer

You should write to your employee (ideally within 10 working days of your meeting) to advise them of your decision. If you cannot accommodate the requested working pattern you may still wish to explore alternatives to find a working pattern suitable to you both.

Please note that Appendix 4: Flexible working application rejection form should be used if the employee's working pattern cannot be changed and no other suitable alternatives can be suggested.

Date

Dear

Following receipt of your application and our meeting on (date)

I have considered your request for a new flexible working pattern and:

- I am pleased to confirm that I am able to accommodate your application. OR
- I am unable to accommodate your original request. However, I am able to offer the alternative pattern which we have discussed and which you agreed would be suitable to you.

Your new working pattern will be as follows:

Your new working pattern will begin from (date)

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, unless otherwise agreed and documented in writing.

Yours sincerely

Name (Manager):

Name (Employee):

Job title:

Job title:

Appendix 4: Flexible working request rejection form

Note to the employer

You should write to your employee with your decision ideally within 10 working days following the meeting. This letter can be completed by you when declining an application. However, you must ensure that full consideration has been given to the application. You must state the business ground(s) as to why you are unable to agree to a new working pattern and the reasons why this is felt to be relevant to the decision.

Date

Dear

Following receipt of your application and our meeting on (date) I have considered your request for a new flexible working pattern.

I am sorry but I am unable to accommodate your request for the following business ground(s):

The grounds 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 this decision you have the right to appeal against it, and you must write to me setting out your grounds for appeal within 5 working days of receiving written notice of the decision

Yours sincerely

Name (Manager):

Name (Employee):

Job title:

Job title:

To the employer

If you reject your employee's request for flexible working, your employee has the right to appeal against your decision.

If your employee appeals against your decision to refuse a request for flexible working, you should arrange a meeting with your employee to discuss the appeal, ideally within 10 working days of receiving the appeal letter – the appeal must be heard by an individual (no less senior than the original decision maker) who has had no involvement in the previous decision (to reject the employee's request).

After the meeting has been held you should write to your employee (ideally within 10 working days) to notify them of the outcome of the appeal.

Appendix 5: Flexible working request employee appeal template letter

You can use this letter to tell your employer you wish to appeal against your employer's decision to refuse your application to work flexibly.

Date

Dear

I am appealing against your decision to decline my application for flexible working on the following grounds:

Please continue on a blank sheet if necessary

Yours sincerely

Name (Employee):

Job title:

Appendix 6: Flexible working request employee appeal reply

Note to the employer

You must reply to an appeal that an application to work flexibly has not been properly considered.

You should give notice of your decision in writing, ideally within 10 working days of the meeting at which the appeal was discussed. If the individual hearing the appeal decides to turn down the appeal, the grounds for refusal must be stated.

Headed paper

Date

Dear

Following the appeal hearing with (independent manager) on XX, the initial decision to refuse your application to work a flexible working pattern has now been reconsidered.

(Complete either A or B)

A. Your appeal against the decision has been accepted.

I am therefore able to accommodate your original request to change your working pattern as follows:

Your new working arrangements will begin from (date)

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 back to your previous working pattern.

B. Your appeal against the original decision has been unsuccessful.

You now have no right to appeal further, or to submit another flexible working application until 12 months has elapsed since the original application was submitted.

Yours sincerely

Name (Manager):

Name (Employee):

Job title:

Job title:

Appendix 7: Flexible working request extension of time limit form

Note to the employer

This letter is provided for you to complete when confirming with your employee that you have agreed to extend the time limit for the procedure from that set out in the regulations. The time limit of two months for the overall process may only be extended providing your employee agrees to this.

Date

Dear

I wish to extend the amount of time that the regulations allow me to complete the process of consideration with regard to your flexible working application:

I wish to extend the time limit to days. This means that I will have until (date) to complete the necessary action. I need the extra time for the following reason:

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

Yours sincerely

Name (Manager):	Name (Employee):
Job title:	Job title:

Note to the employee

To allow proper consideration of your request, your employer may wish to extend the permitted time limit for the process. Your employer will need your agreement to any extension of the time limit. If you agree to the above request, please complete the agreement slip below and return it to your employer.

Employee's agreement to time extension (to be completed and returned to employer)

Dear

I accept your request to extend the amount of time to (date).

Yours sincerely

Name (Employee):

Job title: