

# MODEL FLEXIBLE WORKING REQUESTS POLICY FOR SCHOOLS

## APRIL 2009

This policy was adopted by The Governing Body of .....  
School on ..... (date)

### Delegated Responsibilities

The Governing Body has agreed to delegate responsibility for considering and authorising flexible working requests, as part of the Model Flexible Working Requests Policy as follows:

To the Head Teacher	Yes / No	Date agreed _____
To the First Committee of Governors	Yes / No	Date agreed _____
To the Chair of Governors	Yes / No	Date agreed _____

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**DEVON COUNTY COUNCIL  
HUMAN RESOURCES DIRECTORATE**

**MODEL FLEXIBLE WORKING REQUESTS POLICY FOR SCHOOLS**

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For Schools that purchase personnel support from Devon County Council Schools' Personnel Service: Head Teachers and designated managers can seek further advice from the Schools' Personnel Helpline at [schoolspersonnelhelpline@devon.gov.uk](mailto:schoolspersonnelhelpline@devon.gov.uk) or telephone 01392 384567.

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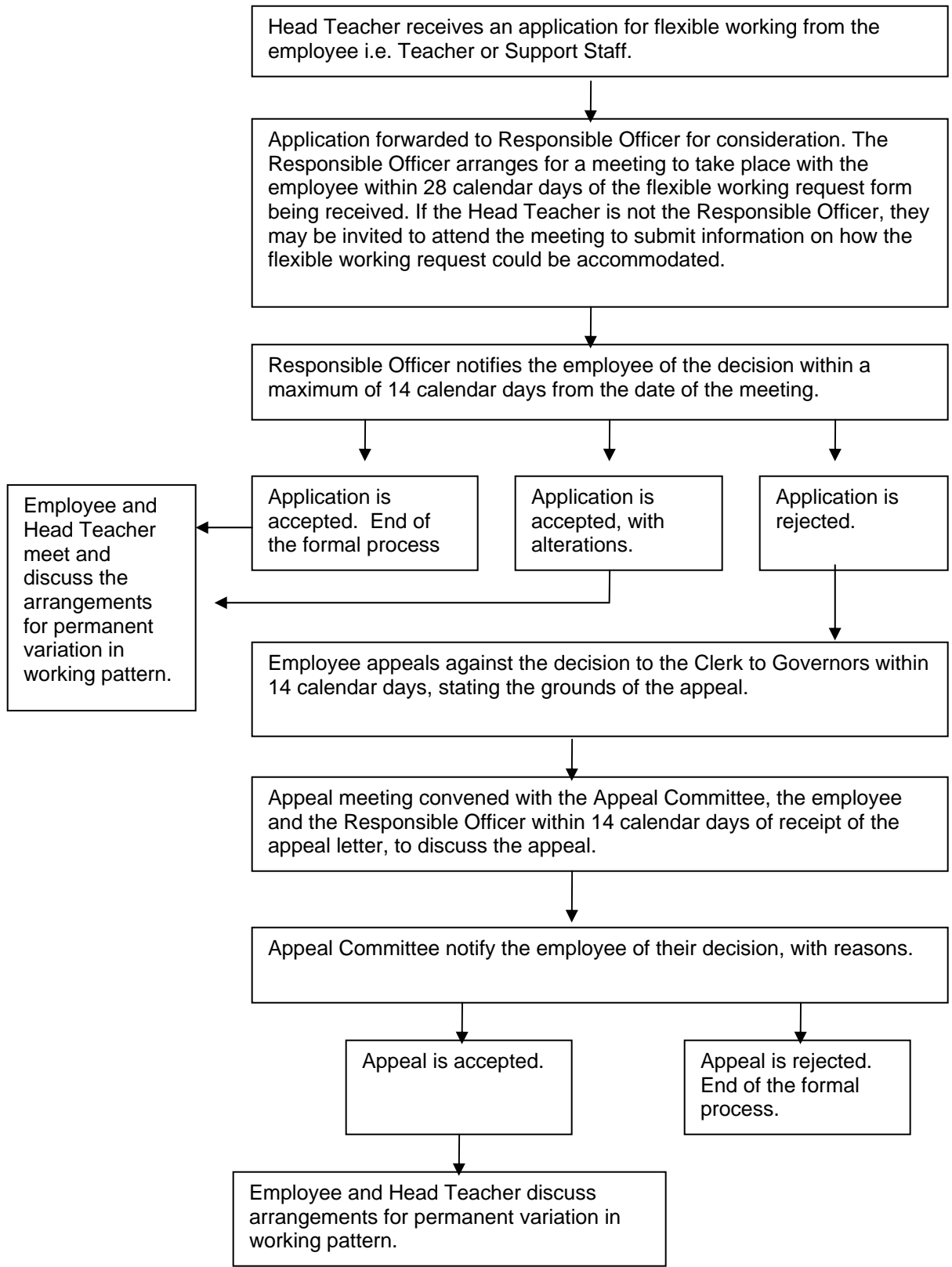
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## Flexible Working Request Flow Chart - Schools



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## **A. INTRODUCTION AND PURPOSE**

### **A.1. Responsibility for the Application of the Policy**

It is the responsibility of the Governing Body and Head Teacher to ensure that employees who meet the eligibility criteria detailed in the Model Flexible Working Requests Policy are provided with the right to request a variation to his or her contract so that they can work more flexibly and thereby achieve a better balance between their lives outside of work and work commitments.

The Governing Body and Head Teacher are responsible for ensuring that the statutory procedures and timeframes detailed in the Model Flexible Working Requests Policy are adhered to.

In considering a flexible working request, the Governing Body and Head Teacher should ensure that they have due regard to the School's staffing structure requirements, in particular ensuring that teaching and learning standards can be maintained.

### **A.2. Responsible Officer / Committee**

The Governing Body may agree to delegate responsibility for considering and deciding whether or not to agree to flexible working requests, in line with the Model Flexible Working Requests Policy, to either the Head Teacher, the Chair of Governors or to the First Committee of Governors.

The nominated individual or committee are referred to as the Responsible Officer in the Flexible Working Requests Policy.

Where the Responsible Officer is not the Head Teacher, the Responsible Officer must obtain information from the Head Teacher on the practicalities of accommodating the flexible working request within the existing staffing structure and any effect on teaching and learning.

### **A.3. Appeal Committee**

The Appeal Committee will comprise three governors. It should be confirmed that none of the governors have had any previous involvement in the flexible working request, a close relationship with the employee or a vested interest.

### **A.4. Consultation**

This policy is provided, following consultation with Trade Unions and Professional Associations, for the Governing Body to consider for adoption. Should the Governing Body wish to make changes to this model policy, the required consultation must be undertaken with the County Officers of the recognised Trade Unions and Professional Associations.

#### **A.5. Costs**

Schools that do not purchase HR advice from the Devon County Council Schools' Personnel Service, must ensure that either they or their personnel service provider have adequate financial resources to cover any costs arising from any subsequent claims.

#### **A.6. Legislative Base**

This policy takes into account the statutory requirements of the Employment Rights Act 1996 (Amended 2009).

From 6<sup>th</sup> April 2003, the Employment Act 2002 amended the Employment Rights Act 1996 to provide parents with children under the age of six (or under the age of eighteen in the case of a disabled child), the right to request flexible working and placed a duty on employers to consider these requests seriously. This was extended to parents with children under the age of sixteen (or under the age of eighteen in the case of a disabled child) on 6<sup>th</sup> April 2009.

From April 2007 the right to request flexible working was extended to the carers of adults.

#### **A.7. Aim of this Policy**

This policy supports employees, who meet the eligibility criteria, to request a permanent variation to their contract of employment so that they can work more flexibly and thereby achieve a better balance between their lives outside work and their work commitments.

#### **A.8. Coverage**

This policy applies to all staff in the School and will be made available to every member of staff through the School's internal systems.

### **B. POLICY**

#### **B.1. Application of the Policy**

This policy:

- is non-discriminatory and in accordance with the School's equality policies;
- will be consistently and fairly applied across the School;
- will be conducted with respect for the confidentiality of individuals and in accordance with the Data Protection Act 1998;
- is based on open communication between members of staff and their managers;
- is explicit about the responsibilities for all involved.

## **C. CONFIDENTIALITY**

The Responsible Officer will ensure there are full, comprehensive records of the process which will be stored confidentially.

In the event of the employee making an application under the Data Protection Disclosure Policy, a school can obtain advice from the Devon County Council Compliance Team.

The Information Compliance Team can be contacted by emailing [dpoffice@devon.gov.uk](mailto:dpoffice@devon.gov.uk).

## **D. EQUAL OPPORTUNITIES**

The conditions for qualification under this policy will not disadvantage any employee on the grounds of age, race or ethnicity, disability, gender and marital status, gender identity or sexual orientation.

## **E. GENERAL PRINCIPLES**

### **E.1. Being Accompanied at Meetings**

Employees have the right to be accompanied by a trade union representative or a workplace colleague at any stage in the procedure. The Head Teacher is advised to make staff members aware of this provision.

### **E.2. Recording of Information**

All decisions relating to the request should be recorded in writing.

Subject to Data Protection legislation, documentation or data that has been used to form the basis of the decision should be available upon request.

### **E.3. Contractual Variations**

If a change is agreed, it will be a permanent variation of contract and there will be no right for the employee to revert back to the former working arrangement.

Where there is concern by either party on the implications of agreeing a flexible working request, a trial period or a limited period of working flexibly can be mutually agreed. A timeframe should be agreed in advance of the arrangement commencing and this should be documented in writing.

#### **E.4. Timescales**

The timescales detailed in the policy are in accordance with the statutory requirements and therefore must be adhered to unless both parties have agreed to an extension of time.

There may be a number of reasons why the time limits specified are too short and an extension may be required. Where an extension to the time limits is agreed, a written record of this decision should be made. **See Flexible Working Extension of Time Limit Form – Appendix 2.**

An application is taken to have been made on the date that it is received. Where an application is made by email or fax, it is taken to be received on the day it was transmitted.

The timeframes indicated in the Flexible Working Policy shall not commence until the Head Teacher is in receipt of the fully completed Flexible Working Request Form.

An employee who is thinking about making a request to change his or her work pattern should speak to the Head Teacher as early as possible in order to explore what possibilities might be available.

The statutory procedures can take up to 14 weeks to complete and therefore sufficient time should be allowed by the employee.

Where the manager is absent from work due to leave or illness the statutory procedures provide an automatic extension to the time limits. Therefore during periods of school closure or where the Head Teacher is absent due to illness, the period that the Responsible Officer has to arrange the meeting will commence either on the day of the Head Teacher's return or 28 calendar days after the application is made, whichever is the sooner. It is advisable that the school makes arrangements during the summer holidays to ensure that any anticipated flexible working requests are registered within the 28 calendar days extension period.

#### **E.5 Pensions**

It is recommended that the employee seeks advice from their pension provider prior to requesting a variation to the contract of employment. The employee's Trade Unions / Professional Association may also be able to provide information.

Teachers should contact Teachers' Pensions at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk) . Support staff belonging to the Local Government Pension Scheme can make contact at [www.lgps.org.uk](http://www.lgps.org.uk) .

### **F. Statutory Reporting Obligations**

No statutory reporting obligations exist under this policy.

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## G. Eligibility

The Flexible Working Requests Policy applies to employees who:

- Have a child under 16 years of age, or under 18 years of age in the case of a disabled child; and
  - Have or expect to have responsibility for the child's upbringing; and
  - Are making the application to enable them to care for the child;
  - And are either: the mother, father, adopter, guardian, special guardian or foster parent of the child; or
  - Are married to or the partner of the child's mother, father, adopter, guardian, special guardian or foster parent.
- Have caring responsibilities. Carers are family, friends, neighbours and partners who provide long term care and support to people of any age with disability, illness or frailty. The care they provide is unpaid.

An employee making a request under the Flexible Working Policy must also meet the following criteria:

- Have worked for Devon County Council or the School continuously for 26 weeks at the date the application is made;
- Make the application no later than two weeks before the child's 16th birthday or 18<sup>th</sup> birthday in the case of a disabled child;
- Make the application to enable him or her to provide unpaid care;
- Have not made another application to work flexibly under this policy during the past 12 months.

## H. No Automatic Entitlement

It is important to note that the Flexible Working Requests legislation provides an employee, who meets the qualifying criteria, with the right to **REQUEST** flexible working arrangements. Whilst every effort will be made to accommodate a flexible working request, there is no automatic entitlement to have a flexible working request agreed; every request will be considered in conjunction with the needs of the School.

## I. Non Eligible Employees

The principles of the Flexible Working Requests Policy may be used to consider flexible working requests received from employees who do not meet the eligibility criteria. However, it should be noted that the School is not bound by the statutory requirements detailed in the Flexible Working Requests Legislation.

## J. Types of Flexible Working

Types of flexible work patterns include the consideration of:

- Flexi-time – working time is split between core hours and time when employees can choose when to work.
- Part-time working – allows employees to work a proportion of the hours which would normally be regarded as full-time for that employment.
- Job share – involves two or more people sharing a full-time post.
- Shift working – provides employers with the opportunity to open their business for longer.
- Annualised hours – where working time is organised over the number of hours to be worked in a year rather than a week.
- Term-time working – allows employees to take unpaid leave of absence during the school holidays.
- Home working - individuals have the opportunity to work from home on either a full or part time basis.
- Compressed hours – where individuals complete their hours over a shorter period of time.
- Staggered hours – allows employees to start and finish their day at different times

The type of flexible working pattern requested by an employee will need to take into account the practicalities of applying the revised working arrangements in a school setting.

## K. Proof of Eligibility

There is no legislative requirement for employees to provide evidence or proof that the child or adult in question requires any particular level of care or to detail the type of care that will be provided. However, where it is suspected that there has been abuse of the right, for example because it is suspected that the employee does not genuinely have a qualifying relationship with the child or adult in question, the employer may reasonably request evidence (if this is available). Abuse of the right to request flexible working may result in the Schools' Conduct Procedures being invoked.

## L. PROCEDURE

### L.1 Making the Request

An employee wishing to make a request for flexible working must complete a **Flexible Working Request Form (Appendix 1)** and submit it to the Head Teacher.

The Flexible Working Request Form provides the employee with the opportunity to give an explanation of what effect, if any, the employee thinks the proposed change would have on the school and how they feel any such effect might be dealt with.

Employees should ensure that all sections of the form are completed.

Incomplete forms should be returned to the employee for completion. The timeframes indicated in the Model Flexible Working Requests policy shall not commence until the completed the form is received.

The Head Teacher should acknowledge receipt of the request by returning, to the employee, the **Head Teacher's Confirmation of Receipt Slip** at the end of the Flexible Working Request Form.

If the Head Teacher is not the nominated Responsible Officer, he or she should make arrangements for a copy of the Flexible Working Request Form to be forwarded to the Responsible Officer at the earliest opportunity.

If an employee unreasonably refuses to provide all the information needed to assess whether the change can be agreed, the Head Teacher will be entitled to treat the application as withdrawn. The employee would not then be able to make another application for 12 months. In these circumstances, the Head Teacher should write to the employee to confirm that the status of the application is considered as being withdrawn.

### L.2. Considering the Request

The Responsible Officer should arrange a meeting with the employee within 28 calendar days of the Flexible Working Request Form being received.

The purpose of the meeting will be to discuss and clarify any aspect of the flexible working request and if necessary, to consider alternatives.

Consideration should be given to the long term implications of agreeing a flexible working request and the restrictions that may be associated with a particular type of employment contract or the wording used in the Flexible Working Request Acceptance Form and / or Letter of Appointment. Schools may wish to obtain advice from the Schools' Personnel Service prior to responding to a flexible working request.

The employee may be accompanied to the meeting by either a union representative / professional association or by a work colleague.

If the employee is unable to attend the meeting, a new meeting should be arranged for a date within 7 calendar days of the original proposed time.

If the employee fails to attend the meeting without explanation more than once, the employer may consider the flexible working request application withdrawn. The Responsible Officer should write to the employee to confirm the action taken.

Both parties should be prepared to be flexible when reaching an agreement whilst having due regard for the needs of the school.

If the Head Teacher is not the Responsible Officer, the Head Teacher should be present to submit information to the meeting on how the flexible working request could be accommodated within the existing school structure.

Any recommendation provided by the Head Teacher should be supported by the relevant documentation and / or evidence.

The Responsible Officer should ensure that a written record of the meeting is made detailing the key points of discussion, including any alternative working proposals suggested and the response. A copy of the record should be provided for the employee.

If the flexible working request cannot be accommodated it is advisable that the Responsible Officer explores alternative working arrangements that may enable the employee to work flexibly. The rationale for accepting or refusing any arrangement should be documented.

A decision regarding the flexible working request will be made by the Responsible Officer. The Responsible Officer has up to a maximum of 14 calendar days from the date of the meeting to consider the flexible working request, including clarifying any information that may have been submitted as part of the process, and to provide the employee in writing, with details of the final decision.

It may be appropriate for the Responsible Officer and the employee to agree a trial period of a new working arrangement to establish whether it suits both parties. It is important that any trial period agreed outside of the original flexible working request is documented, detailing the length of time that the trial period will operate, when it will be reviewed and extending the timescales for a final decision to be made on the flexible working request.

Where a flexible working request is unlikely to be accepted, the Responsible Officer must ensure that the decision can be substantiated with the appropriate evidence, for example, if citing detrimental impact on quality, specifically

parental concerns regarding continuity of teaching, it would be reasonable that there is a record of either discussions held or letters received from parents corroborating the reason cited. It is advisable that advice is sought from the Schools' Personnel Service in respect of flexible working requests which may be refused.

## **M. Informing of the Decision**

The Responsible Officer will write to inform the employee of their decision within a maximum period of 14 calendar days of the meeting.

If the request is agreed the Responsible Officer should complete a **Flexible Working Acceptance Form (Appendix 3)** and send it to the employee. Any compromise offered and agreed at the meeting should be detailed in the Flexible Working Acceptance Form.

If the request is refused the Responsible Officer should complete a **Flexible Working Reject Form (Appendix 4)** and send it to the employee.

The only valid reasons for a request being refused include:

- Additional cost to the School
- Detrimental effect on the School's ability to meet customer demand
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes

In addition to stating the reason for the request being refused the Responsible Officer should include an explanation about why the reason(s) apply in the circumstances. It is not necessary for the Responsible Officer to provide evidence to support the explanation however they should ensure that they are able to substantiate any facts in the event of a subsequent dispute occurring.

The Responsible Officer should arrange for a copy of the Flexible Working Request Form and either the Flexible Working Acceptance Form or the Flexible Working Reject Form to be placed onto the employee's personal file.

## **N. Appeal Against the Decision**

If an employee is dissatisfied with the response from the Responsible Officer, he or she has the right of appeal.

An Appeal meeting provides an opportunity for the employee to make representation to a Committee of Governors not involved in the original decision.

There are no constraints on the grounds under which an employee can appeal.

The employee should register the appeal using a **Flexible Working Appeal Form (Appendix 5)** within 14 calendar days of receiving the written refusal for the request for flexible working. The employee should provide concise details of the grounds under which they are appealing the original decision. The completed form should be sent to the Clerk to Governors.

The Clerk to Governors should arrange for an Appeal meeting to be convened within a maximum period of 14 calendar days of receipt of the appeal.

The Appeal should be considered by a Committee of Governors acting as the Appeal Panel. It should be confirmed that members of the Appeal Panel have not had any previous involvement in the flexible working request, a close relationship with the employee or a vested interest.

The employee and the Responsible Officer will be invited to attend the Appeal meeting to submit their case.

Where an employee fails to attend an Appeal meeting, the Clerk to Governors should arrange for a second Appeal meeting to be scheduled. If the employee fails to attend more than two Appeal meetings the Responsible Officer can assume that the flexible working request has been withdrawn. It is advisable that the Responsible Officer writes to the employee to confirm this course of action.

Either party may invite witnesses, who are relevant to the flexible working request, to attend the meeting. The Head Teacher should be asked to attend to present and clarify information that he or she has previously submitted to the Responsible Officer.

An accurate account of the Appeal meeting should be made. This record may be used during any legal process.

The Appeal Panel has responsibility for considering the grounds on which the appeal has been raised; as detailed in the employee's Flexible Working Appeal

Form. This may require the panel to review the original decision making process, the grounds of refusal and any supporting documentation to establish whether the original decision was reasonable and was in line with legislative requirements.

The Chair of the Appeal Panel must notify the employee of the decision using a **Flexible Working Appeal Reply Form (Appendix 6)**, within a maximum period of 14 calendar days after the date of the meeting.

Once the process is complete, the Chair of the Appeal Panel should arrange for copies of the Flexible Working Appeal Form and the Flexible Working Appeal Reply Form to be placed onto the employee's personal file.

At the end of the appeal procedure there is no further mechanism for considering the flexible working request.

## **O. Withdrawal of Flexible Working Request**

If an employee wishes to notify the Head Teacher that they wish to withdraw their application, they should do so in writing using the **Flexible Working Notice of Withdrawal Form (Appendix 7)**. The Head Teacher should respond by completing the **School Confirmation of Withdrawal** slip which can be found at the end of the Notice of Withdrawal Form. A copy of the Flexible Working Notice of Withdrawal Form should be placed on the employee's personal file.

Where an employee fails to meet their responsibilities, as detailed in the Flexible Working Requests policy, the School may also treat an application as withdrawn. In these circumstances, the Head Teacher should write to the employee to confirm that the application has been withdrawn.

## Appendix 1 - Flexible Working Request Form

<b>Personal Details</b>	
Employee Name:	
Head Teacher:	School:
Payroll Number:	NI Number:
<b>Work Pattern Details</b>	
Detail your current contractual hours including the number of weeks per annum you are contracted to work:	
Describe the new contractual variation that you would like the School to consider:	
Detail when you would like the new contractual variation implemented (date):	
<b>Impact of the Flexible Working Request</b>	
Describe how the contractual variation will affect the School and colleagues:	
<b>Accommodating the Flexible Working Request</b>	
Describe how the effect on the School and colleagues can be addressed:	
I confirm I have not made a flexible working request during the past 12 months.	
Employee Signature:	Date:
<b>NOW PASS THIS REQUEST TO THE HEAD TEACHER</b>	

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**Head Teacher's Confirmation of Receipt (to be completed and returned to employee)**

Dear:

I confirm that I received your flexible working request on (date):

A meeting will be arranged with the nominated Responsible Officer to discuss your application within 28 calendar days following this date. In the meantime you might want to consider whether you would like trade union representative or work colleague to accompany you at the meeting.

From:

Head Teacher Signature:

Date:

**Appendix 2 - Flexible Working Extension of Time Limit Form**

Dear: ..... Payroll Number: .....

I wish to extend the amount of time that the procedure allows me to: (please tick)

- Arrange a meeting to discuss your request (28 calendar days)
- Notify you of my decision regarding your request (14 calendar days)
- Arrange a meeting to discuss your appeal (14 calendar days)
- Notify you of my decision regarding your appeal (14 calendar days)

I wish to extend the time limit to ..... calendar days.

This means that I will have until .....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 to me.

.....

Name:..... Date: .....

Signature:.....

**NOW PASS THIS APPLICATION TO THE EMPLOYEE**

-----

Cut this slip off and return it to the Responsible Officer in order to confirm your acceptance of their request.

**Employee's Agreement to Time Extension**  
(to be completed and returned to the Responsible Officer)

Dear: .....

I accept your request to extend the amount of time to .....

Name:..... Date: .....

Signature:.....

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## Appendix 3 - Flexible Working Request Acceptance Form

Dear: ..... Payroll Number: .....

Following receipt of your request and our meeting on.....(date):

I have considered your Flexible Working Request:

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

The variation to your contract of employment will be as follows:

.....  
.....  
.....  
.....  
.....  
.....

The contractual variation will begin from ..... (date):

Signature (Responsible Officer): ..... Date:.....

### SEND FORM TO EMPLOYEE FOR SIGNATURE

---

Please note that unless otherwise stated the change will be a permanent change to the terms and conditions of employment and you have no right to revert back to your previous contract of employment.

Name (Employee): ..... Date: .....

Signature: .....

### NOW RETURN THIS FORM TO THE RESPONSIBLE OFFICER

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## Appendix 4 - Flexible Working Request Rejection Form

### RESPONSIBLE OFFICER TO SEND THIS FORM TO THE EMPLOYEE

Dear: ..... Payroll Number: .....

Following receipt of your request and our meeting on: ..... (date).

I have considered your Flexible Working Request.

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

.....  
.....  
.....  
.....

The grounds apply in the circumstances because:

.....  
.....  
.....  
.....

Note: 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.

You have the right to appeal against my decision. Details of the appeal procedure are set out below.

Name:..... Date:.....

Responsible Officer signature: .....

---

### The Appeal Process

#### TO THE EMPLOYEE

If your request for flexible working has been turned down, you have the right to appeal against the decision. If you wish to appeal, you must write to your Chair of Governors, setting out the grounds for your appeal, within 14 calendar days after receiving written notice of their decision.

## Appendix 5 - Flexible Working Request Appeal Form

Dear: .....

I wish to appeal against your decision to refuse my request for flexible working.

I am appealing on the following grounds:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

(Please continue on a blank sheet if necessary)

Signed: ..... Date:.....

Name:..... Payroll Number:.....

School:

**NOW RETURN THIS FORM TO THE CLERK TO GOVERNORS**

## Appendix 6 - Flexible Working Appeal Reply Form

Dear: ..... Payroll Number: .....

Following our meeting on: ..... (date)

The Appeal Committee has considered your appeal against the decision to refuse your Flexible Working Request application.

The Committee's decision is to accept your appeal against the decision. I am therefore able to accommodate your original request to vary your contract of employment as follows:

.....  
.....  
.....  
.....

The variation to your contract of employment will begin from: ..... (date).

Please note that the change will be a permanent change to your contract of employment and you have no automatic right to revert back.

The Committee's decision is to reject your appeal for the following ground(s):

.....  
.....  
.....  
.....

The grounds apply because:

.....  
.....  
.....

Please continue on a separate sheet if necessary

Signed: ..... Date: .....

Name: .....

RESPONSIBLE OFFICER TO RETURN THIS FORM TO THE EMPLOYEE

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**Appendix 7 - Flexible Working Notice of Withdrawal Form**

Dear: .....

I wish to withdraw my application to work flexibly which I submitted to you on..... (date).

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

Name: ..... Date: .....

Signature: .....

NOW RETURN THIS FORM TO YOUR HEAD TEACHER.

Cut this slip off and return it to your employee in order to confirm your receipt of their withdrawal notice.

**School Confirmation of Withdrawal**  
(to be completed by the Head Teacher and returned to employee)

Dear: .....

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

Under the right to apply, you will not be eligible to submit another application until twelve months after the above date.

Name: ..... Date: .....

Signature: .....

## POLICY HISTORY

Policy Date	Summary of change	Contact	Implementation Date	Review Date
05.04.2007	Revision of existing policy following Work and Families Act 2006	P & S	06.04.2007	
01.11.2008	Revision of existing policy – adapted for Schools.	Schools Personnel Team	06.04.2009	

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**For current guidance please refer to The Source. Version date: 06.04.2009**

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