



**Right to Request Flexible Working
For School Based Staff**

Approved by GB on 26.11.19

Adopted by :

Date :

Review Date	Reviewer	Comments
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August 2018	SE	General review

1.0 Introduction

- 1.1 This policy and associated documents provide guidance for the Headteacher to reasonably consider requests by employees to work flexibly under the Children & Families Act 2014. This gives employees a right to apply to work flexibly but does not imply that an application will be agreed.

2.0 Scope

- 2.1 This policy applies to all employees with at least 26 weeks' continuous service with Middlesbrough Council (or current Governing Body).

3.0 Aim

- 3.1 The purpose of the policy is to provide a fair and consistent approach for considering requests to work flexibly whilst ensuring compliance with legislation.

4.0 Policy Detail

- 4.1 The Headteacher will deal with each request individually and consider the benefits of flexible working balanced against the potential impact on the school and other employees. Decisions will always be subject to the school's educational priorities and the effective running of the school for the benefit of the pupils. In addition, decisions will ensure the school's ability to manage its employees and their workload or provide support to them through supervision are not adversely affected by flexible working practices.
- 4.2 Each request will be considered on its own merits using the process detailed in this policy. Agreeing to one employee's request will not therefore set a precedent or create a right for another employee to be granted a similar change to their working pattern or practice.
- 4.3 Flexible working requests can relate to changes in the number of hours worked or changes to the times worked. This can include compressed or staggered hours, voluntary reduction in hours, job share or term-time only working. For further details see Appendix A.
- 4.4 Any agreed changes would be permanent with no automatic right to revert to previous working practices unless a temporary arrangement has been discussed and agreed.
- 4.5 Employees may only make one request to work flexibly within a 12 month period.

4.6 Employees considering requesting flexible working can discuss their eligibility, options and effect of their proposed work pattern on colleagues and the school before submitting a formal application form.

5.0 Procedure

A flow chart summarising the procedure and timescales is at Appendix B.

5.1 Application

5.1.1 Applications should be made by completing the 'Application for Flexible Working' form and, where possible, should be submitted to the Headteacher at least 2 months prior to the proposed start date. In the case of the Headteacher requesting flexible working the form should be submitted to the Chair of Governors.

5.1.2 Legislation requires employees to make their application in writing, ensuring they are dated and include the following information:

- The proposed changes to working times and a proposed date for these changes to come into effect
- What effect the requested change would have on the school and how, in their opinion, any such effect may be dealt with
- That this is a statutory request and if they have made a previous application for flexible working, the date of that application; and,
- Where appropriate, the employee should also state if they are making their request in relation to the Equality Act 2010, for example as a reasonable adjustment for a disability.

5.1.3 If all of the information required is not provided the application will be returned and may be considered withdrawn if it is not resubmitted with the missing information.

5.2 Consideration of the request

5.2.1 Requests will be dealt with in a timely manner as the law requires this process, including any appeal, is completed **within 3 months** of first receiving the fully completed request. This period can be extended, for example in cases of sudden illness or if there is a need for the Headteacher to gather further information, providing the employee agrees to the extension. If an extension is agreed, this will be recorded by the Headteacher, in writing, dated and state when it is to end, a copy will also be sent to the employee.

5.2.2 If the Headteacher receives more than one request, they will be considered in the order in which they were received. Each request will be considered on its own merit. If the first request is accepted the business context will change and will be taken into account for the second request. In the case of simultaneous and/or conflicting requests, discussions may take place with the employees to see if there is any room for compromise or adjustment.

5.2.3 In addition to considering the benefits for both the school and the employee in facilitating flexible working the impact on the pupils, the curriculum and ability to meet demands and manage employees will also be taken into account.

5.2.4 Requests to work flexibly will be considered objectively and will only be refused if there are business reasons for doing so. The 8 business reasons on which an application can be turned down are set out in legislation and are:

- The burden of any additional costs
- An inability to reorganise work among existing staff
- An inability to recruit additional staff
- The change will have a detrimental impact on quality
- The change will have a detrimental impact on the business ability to meet customer demand
- The change will have a detrimental impact upon performance
- There is insufficient work during the periods the employee proposes to work
- Planned structural changes/reorganisation or changes to the business that mean flexible working changes may not fit in with these plans.

For further details see Appendix C

5.3 Formal meeting to discuss the request

5.3.1 In some circumstances, where the application is clear on all details and the Headteacher is able to accept the request without any changes or the need for further discussion then a meeting may not be necessary, however the outcome will still be confirmed in writing.

5.3.2 Within 10 working days of the date of the application, the Headteacher will meet with the employee to discuss the request. The employee will be informed in writing, given 5 working days notice of the date and time of the meeting and reminded of their right to be accompanied by their Trade Union representative or school colleague. **(see example letter LET/FW1)**. A note taker may also be present at the meeting.

5.3.3 The Headteacher may contact Human Resources for advice or guidance on the procedure and/or individual circumstances prior to the meeting. If requested by the Headteacher an HR representative may also attend the meeting.

5.3.4 At the meeting the request will be discussed to ensure that what the employee is requesting is clear to the Headteacher and to establish any potential flexibilities or compromise the employee would consider which may assist the school in being able to meet the request. The Headteacher will also highlight any reasons why it may be difficult to accommodate the request.

5.3.5 Following the meeting the Headteacher will consider the application, the discussion held and any impact it may have on others and within 5 working days inform the employee in writing of his/her decision to:

- Accept the request (**example letter LET/FW2**), or
- Confirm any compromise agreed at the discussion, such as a temporary or trial arrangement (**example letter LET/FW2**), or
- Reject the request, setting out clear business reasons (see 5.2.4) for doing so and giving the employee the right to appeal. (**example letter LET/FW3**), or
- Propose an alternative not discussed or agreed at the meeting. (**example letter LET/FW3**)

If more time is needed to consider the request this will be discussed with the employee and confirmed in writing (**example letter LET/FW4**).

5.3.6 If the request, or a compromise discussed at the meeting, is agreed the Headteacher will notify the employee in writing of the changes and the date the changes come into effect. The school's payroll provider will also be informed if appropriate. Any changes will be permanent unless a temporary arrangement has been agreed.

5.3.7 If the application is declined and the employee wishes to appeal, he/she must do so in writing setting out the grounds for appeal. The letter must be dated and sent to the Headteacher within 10 working days of the date of the letter declining the request.

5.3.8 If an alternative is offered in writing to the employee which was not discussed at the meeting the right of appeal will also apply.

5.3.9 The Headteacher will keep copies of any information gathered and considered when reaching their decision along with notes taken at the meeting with the employee and copies of any letters sent. Should the employee appeal a decision to decline a request this paperwork will be required for the appeal process.

6.0 Appeals

6.1 If a letter of appeal is received by the Headteacher receipt will be acknowledged and the letter passed to the chair of the appeal panel.

6.2 Within 15 working days of the date of the letter of appeal an Appeal Panel formed from three members of the Governing Body (who were not involved in making the original decision) will meet the employee to discuss the appeal. It may be necessary to include one or more governors from other schools in some cases. The Headteacher will attend to outline the reasons for the original decision. A note taker will also be in attendance.

6.3 The employee will be informed in writing, giving 10 working days notice, of the date and time of the appeal hearing by the Chair of the Appeals Panel and reminded of the right to be accompanied by a trade union representative or a school colleague. (**example letter LET/FW5**). If requested by the Chair of the Panel an HR representative may also attend the hearing.

- 6.4 Following the appeal hearing the Chair of the Appeals Panel will notify the employee of the decision in writing within 5 working days of the date of the hearing **(example letter LET/FW6)**.
- 6.5 If the appeal is upheld the employee will be given written notice of the decision, the changes agreed, that it is a permanent change (unless agreed otherwise) and the date they are to take effect.
- 6.6 If the appeal is not upheld the employee will be informed in writing. The letter must be dated and should set out the grounds for the decision, providing sufficient explanation as to why those grounds apply.
- 6.7 This decision is final.

Further details on the procedure for the appeal hearing is at Appendix D.

7.0 Withdrawing an Application

- 7.1 If an employee wishes to withdraw an application for flexible working they should do so in writing to the Headteacher who will acknowledge receipt of the letter in writing.
- 7.2 If the Headteacher arranges a meeting to discuss the application including any appeal and the employee fails to attend both this and a re-arranged meeting without a good reason, the Headteacher will consider the request withdrawn. The Headteacher will confirm this in writing to the employee within 10 working days of the re-arranged meeting.
- 7.3 If the employee refuses to provide information required in order to consider the application it may also be treated as withdrawn.
- 7.4 If a request is withdrawn for any of the above reasons the employee will not be eligible to make another statutory request for 12 months from the date of the initial request.
- 7.5 The withdrawal of an application whether by the employee or the Headteacher will be confirmed in writing. **(example letter LET/FW7)**

What is flexible working?

Flexible working covers a wide range of options including, but not limited to:

- **Part-time working** – may involve a later start and/or earlier finish time than a full-time position, working mornings or afternoons only, fewer working days in the week or any other arrangement of working time whereby the employee is contracted to work less than normal basic full-time hours.
- **Staggered hours** – employees in the same workplace have different start, finish and break times and can be an effective means of covering longer opening hours.
- **Compressed working hours** – employees work their total number of agreed hours over fewer working days. For example a five-day working week being compressed into four days. Compressed hours arrangements should be workable and not put unnecessary pressure on employees or their colleagues.
- **Job sharing** – involves two people carrying out the work which would normally be done by one person. There is no set model for managing time, which may involve working a set number of hours each day, each week or alternate weeks. Where an existing job sharer leaves, and the post is still deemed to be a full time position, the remaining job sharer should be given the opportunity to return to full time work. Should the remaining job sharer not want to take up full time work the vacant job share will be advertised in the normal way.
- **Term-time working** – enables an employee to work only during school term time.
- **Annualised hours** – this is a system whereby the hours which an employee is contracted to work, are calculated over a whole year. Usually the annual hours are split into two parts. The larger part consists of set hours with the remaining hours unallocated. Usually the employee is paid for unallocated hours and owes time to the employer. The employer keeps these hours in reserve and can call on the employee to work at short notice as demand dictates.

Please note that not all options are appropriate for all roles.

RIGHT TO REQUEST FLEXIBLE WORKING PROCEDURE & TIMESCALES

Whole process to take no longer than 3 months (including Appeal) unless agreed otherwise

APPLICATION

Employee submits application to the HT **at least 2 months** prior to proposed start date (where



HT considers application and **within 5 working days** of receipt, sends invite to formal meeting (giving **5 working days'** notice)



Decision made following meeting and notified to employee, in writing **within 5 working days** of

APPEAL

Any appeal by the employee must be made **within 10 working days**



Appeal hearing held within 15 working days of date of appeal



Business grounds for declining a request for flexible working

- **Burden of additional cost**
What, if any, additional costs will be incurred in running the school if the request is approved and how will this be funded? This could include unacceptable set up costs (eg recruitment) and/or ongoing costs.
- **Detrimental impact on quality or ability to meet customer demand**
Can the school provide the same quality of service with fewer people? If supervisory responsibilities are part of the job, will they be available to check the quality of work produced. Can the same number of pupils be supported, will there be a detrimental effect on service delivery or possible adverse impact on pupils or the curriculum?
- **Inability to reorganise work amongst existing employees**
Do employees have allocated tasks that need to take place at the same time which are unable to be changed? If the role involves the day-to-day management of others how will this be managed? The request may be discussed with other employees where appropriate and agreed with the employee making the request.
- **Inability to recruit additional employees**
If someone is asking to reduce by 1 day and you need to cover that day with an additional employee would you be able to recruit? This may be more difficult in certain work areas. A decision may be deferred, if appropriate, whilst a recruitment process is undertaken.
- **Detrimental impact on performance**
Can the School perform at the same level with fewer people? Is supervision possible? Can you check targets are met or work is being completed to timescales? Will pupils' progress be adversely affected? Providing a continuous level of service may be difficult. Performance can mean that of the individual, the team or the whole organisation.
- **Insufficiency of work during the periods the employee proposes to work**
If the current post is pupil focused, is the proposal to work outside of pupil attendance times? Is the employee proposing to work when premises/facilities are not available?
- **Planned structural changes**
Are there any planned changes of which the employee is unaware which might mean the request cannot be granted at this time or might assist in the granting of the request?

Appeal Procedure

The Appeal Panel will be formed by three members of the Governing Body (who were not involved in making the original decision). It may be necessary to include one or more governors from other schools in some cases. The Headteacher will attend to outline the reasons for the original decision. A note taker will also be in attendance.

The procedure for the appeal hearing will be as follows:-

- (a) The employee and/or representative shall state the case.
- (b) The management representative may ask questions of the employee and/or representative.
- (c) The Panel may ask questions of the employee and/or representative.
- (d) The management representative shall state the case.
- (e) The employee and/or representative may ask questions of the management representative
- (f) The Panel may ask questions of the management representative.
- (g) The employee and/or representative to have the opportunity to sum up his/her case if he/she wishes.
- (h) The management representative to have the opportunity to sum up his/her case if he/she wishes.
- (i) The Panel will then consider all of the information presented and will notify the outcome to the employee in writing within 5 working days of the appeal hearing. If it is not possible to respond within this timescale the employee should be given an explanation for the delay and when a response can be expected. **(example letter LET/FW6)**
- (j) If the appeal is upheld the employee will be given written notice of the decision, the changes agreed, that it is a permanent change (unless agreed otherwise) and the date they are to take effect.
- (k) If the appeal is not upheld the employee will be informed in writing. The letter must be dated and should set out the grounds for the decision, providing sufficient explanation as to why those grounds apply.
- (l) The decision of the Panel is final.