



The Westminster  
School

*Safe, Happy and learning Together*

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2023/2024

# Flexible Working Policy

Building foundations and providing opportunities to create confident, aspirational, and independent members of our community.

Approved by Governing Body on:	<b>21/3/2024</b>
Signed by Chair of Governors:	<i>P. A. Evans</i>
Head Teacher:	<b>Mr O M Flowers</b>
Lead Personnel:	<b>A Gibson</b>
Date of Review:	<b>21/03/2027</b>

## 1. Introduction

### 1.1 Any employee can request to work flexibly.

All employers have a legal duty to protect the health, safety and welfare of their staff. This includes minimising the risk of stress-related illness. A clear flexible working policy can form an important part of this duty, especially when integrated with broader staff wellbeing policies.

This policy aims to encourage schools to consider flexible working arrangements to support its employees achieve a better balance between work and their other priorities, such as caring responsibilities, leisure activities, further learning and other interests. Schools are committed to agreeing any flexible working arrangements, provided that the needs and objectives of both the organisation and the employee can be met.

This document provides guidelines for service managers, head teachers, governing bodies and employees on the right to request and the duty to consider flexible working under the statutory right.

## 2. Scope

### 2.1 This policy applies to all school-based employees including head teachers.

## 3. Definitions

- (a) **Representative:** an employee is entitled to be accompanied at each Formal Stage i.e. by a recognised trade union representative or work colleague if they so wish.
- (b) **Appeals Committee:** means the Committee consisting of a minimum of 3. Members of the Appeals Committee should have had no prior involvement in the case.

## 4. Schedule of Designated Officers

The following Service Managers can consider Flexible Working Applications from the following staff groups, and appeals will be heard as identified below:

Service Manager	Responsible for Flexible Working Requests From	Appeals Heard by
Head Teacher	Senior Leadership Team	Appeals Committee
Deputy Head Teacher or HR Manager	Teaching and Learning Staff	Head Teacher
School Business Manager or HR Manager	Administration Staff	Head Teacher

## 5. Employees' Rights and Responsibilities

- To be able to apply to work flexibly.
- To have their application considered properly in accordance with the set procedure and refused only where there is a clear service implication for doing so.
- To ensure their application is valid by checking that all the eligibility criteria are met and that they have provided all the necessary information.
- To ensure the application is made well in advance of when they want it to take effect.
- To have a Trade Union Representative or a work colleague when meeting the Service Manager to discuss the application.

- To arrive at meetings on time and to be prepared to discuss their application in an open and constructive manner.
- If necessary, be prepared to be flexible themselves to reach an agreement with the Service Manager.
- Where an application is refused to have a written explanation.
- To appeal against the Service Manager's decision to refuse an application.

## **6. Service Manager's Rights and Responsibilities**

- To reject an application when the desired working pattern cannot be accommodated within the needs of the school.
- To seek the employee's agreement to extend timescales where it is appropriate.
- To consider an application withdrawn in certain circumstances.
- To consider requests properly in accordance with the set procedure.
- To ensure they adhere to the time limits contained within the procedure.
- To provide the employee with appropriate support and information during the application.
- To only decline a request where there is a recognised service implication and to explain to the employee in writing why it applies.
- To ensure that any variation with the procedure is agreed in advance with the employee and recorded in writing.

## **7. Eligibility**

To make an application under the statutory right the employee will have to meet certain criteria. This section explains those criteria and the types of flexible working for which an employee might apply. An employee who does not meet the criteria will not be able to make a request under the statutory right.

### **6.1 Eligibility Checklist**

To be eligible to make a request under this right, a person must:

- Be an employee.
- Not have made 2 applications to work flexibly under the right during the past 12 months.

## **8. Types of Flexible Working**

There is scope to apply for a wide variety of different types of working pattern. Eligible employees can request to:

- Change the hours they work;
- Change the times when they are required to work;
- Change the days when they are required to work; or
- Work from home or from another location (whether for all or part of the week).

A request may be as simple as asking to start half an hour later than usual to allow the employee to drop their child off at school, or it may be a bigger change to their hours.

Flexible working incorporates a wide variety of working practices. A flexible working arrangement can be any working pattern other than the normal working pattern. Most people are familiar with working part-time for pro-rated pay or working different shift patterns.

## 9. Making an Application

An employee's application should set out their desired working pattern in an initial application to the Service Manager well in advance of when the change will take effect.

### 9.1 Application Checklist

An application under the statutory procedure must:

- Be in writing.
- State the application is being made under the statutory right to request a flexible working pattern.
- Specify the flexible working pattern applied.
- State the date on which it is proposed the change should become effective.
- State whether a previous application has been made to their Service Manager and, if so when it was made.
- Be dated.

### 8.2 Will the change of working pattern be permanent?

Any request that is made and accepted under the statutory right will normally be a **permanent** change to the employee's contractual terms and conditions. The employee has no right to revert to the previous working pattern (unless otherwise agreed). So, for example, if an employee's new flexible working pattern involves working reduced hours, he or she has no right to revert to working the hours he or she previously worked, although this is not to say that a Service Manager will automatically reject a subsequent request to do so.

## 10. Considering an Application

The right places a legal duty on the Service Manager to consider all applications and establish whether the desired work pattern can be accommodated within the needs of the school.

The Service Manager should consider each application objectively on this basis, and not attempt to judge whether one applicant's need for flexible working is greater than another's. The Service Manager should not discriminate on any protected characteristic under the Equality Act 2010.

It may be possible for the Service Manager to agree to a request to work flexibly simply on the basis of the application itself and, if so, he/she should write to the employee within 21 days, specifying the contract variation agreed to and the start date.

If the application is refused the Service Manager must be able to demonstrate by using one of the following criteria why the request cannot be accommodated:

- There will be a detrimental effect on our ability to meet the school/pupil needs.
- There will be a detrimental impact on the quality of service and performance.
- The extra costs which will damage the school.
- The school would be unable to recruit additional staff to cover.
- The work can't be reorganised among other staff.
- There's a lack of work to do during the proposed working time.
- The business is planning changes to the workforce.

## 11. Stage 1 - Meeting with Service Manager

- A Service Manager must hold a meeting to consider the request within 14 calendar days after the date an application is received.
- An employee can, if they wish, have a Trade Union representative or Work Colleague present.
- A Service Manager must write to the employee informing them of their decision within 7 calendar days after the date of the meeting.

### **10.1 What happens at the meeting**

Experience shows that the best way for both parties to understand each other's position and identify a solution that suits them both is to hold a face-to-face meeting to discuss the request. The legislation requires the Service Manager to arrange a meeting with the employee. The meeting should take place within 14 calendar days after the application has been made. The meeting will provide both parties with the opportunity to discuss the desired work pattern in depth and consider how it might be accommodated. Both the Service Manager and the employee should themselves be prepared to be flexible. If the original working pattern cannot be accommodated, the meeting also provides an opportunity to see if an alternative working arrangement may be appropriate. It may also be in the Service Manager's and employee's interests to agree that the new working pattern will take place for an agreed trial period for, say, 12 weeks in order to see how it would suit them both.

In this case, the parties could agree to extend the time for a final decision to be given by the Service Manager until the end of the trial period. To do so the Service Manager should specify the period of extension and its end date in writing (dated) to the employee. The Service Manager's final decision can then be given once they have tried out the new pattern. In some circumstances, the Service Manager and employee may conclude that a permanent change to the latter's contract of employment is not the best solution: this might be the case, for example, where an employee is going to be caring for an adult who has a terminal illness or a fluctuating condition. A solution here might be an informal agreement between the Service Manager and employee – outside the legislative framework – to flexible working for a limited period.

However informal the arrangement is, it is advisable to have it agreed in writing so that both employee and Service Manager are clear about start and end dates, etc.

Alternatively, the employee and Service Manager might agree under the formal procedure to a time-limited change after which the employee would revert back to the original working pattern.

## **12. Stage 2 - Appeal to the Head Teacher/Appeals Committee**

- An employee has 14 calendar days to appeal in writing after the date of notification of the Service Manager's decision.
- An employee can appeal to the Head Teacher (or the School's Appeals Committee in the case of SLT), and the appeal must be arranged within 14 calendar days after receiving notice.
- The employee can be accompanied by a Trade Union Representative or Work Colleague.
- The Head Teacher/Appeals Committee must inform the employee of the outcome of the appeal in writing within 7 calendar days after the date of the meeting.

An employee must make their appeal in writing within 14 calendar days after the date they receive written notice that their request has been rejected. When appealing against a refused request an employee will have to set out the grounds for making the appeal and ensure that it is dated.

There are no constraints on the grounds under which an employee can appeal. It may be that they wish to bring to the attention something the Service Manager may not have been aware of when they rejected the application, e.g., that another employee is now willing to cover the hours the applicant no longer wishes to work; or it may be to challenge a fact the Service Manager has quoted to explain why the reason applies.

If the appeal is upheld the written decision must:

- Include a description of the new working pattern.
- State the date from which the new working pattern is to take effect.
- Be dated.

If the appeal is dismissed the written decision must:

- State the grounds for the decision. These will be appropriate to the employee's own grounds for making the appeal.
- Provide an explanation as to why the grounds for refusal apply in the circumstances.
- The same principles apply as to what is a sufficient level of explanation at appeal as the amount of explanation that should be given following the initial decision.
- Be dated.

A written notice of the appeal outcome constitutes the Head Teacher's/ Appeal Committees' final decision and is effectively the end of the formal procedure within the workplace.

### **13. Exceptions to the Procedure and Withdrawals**

In the majority of cases, requests for flexible working will follow the procedure as laid out in the previous sections. However, there will be occasions where it is necessary to deviate from this to help reach a suitable outcome. This section outlines the potential exceptions to the procedure and when an application may be taken as withdrawn. In all circumstances, it is essential that a written record is made.

#### **13.1 Extension of time limits**

Through agreement by the Service Manager and the employee.

There will be exceptional occasions when it is not possible to complete a particular part of the procedure within the specified time limit. For example, it might be that the employer requires extra time to speak to another employee who is on holiday, about whether they could work the hours left uncovered by the employee's requested working pattern; or the employee themselves may be going on leave and as such will not be able to attend a meeting within the time limit. Such extensions of time limits can only take place if they are agreed by both the Service Manager and the employee. The Service Manager must make a written record of the agreement.

The written record of the agreement must:

- Specify what period the extension relates to.
- Specify the date on which the extension is to end.
- Be dated.
- Sent to the employee.

#### **13.2 When can an application be treated as withdrawn?**

There will also be occasions when an application is treated as withdrawn. In all circumstances, a written record must be made.

There are two reasons why an application may be treated as withdrawn:

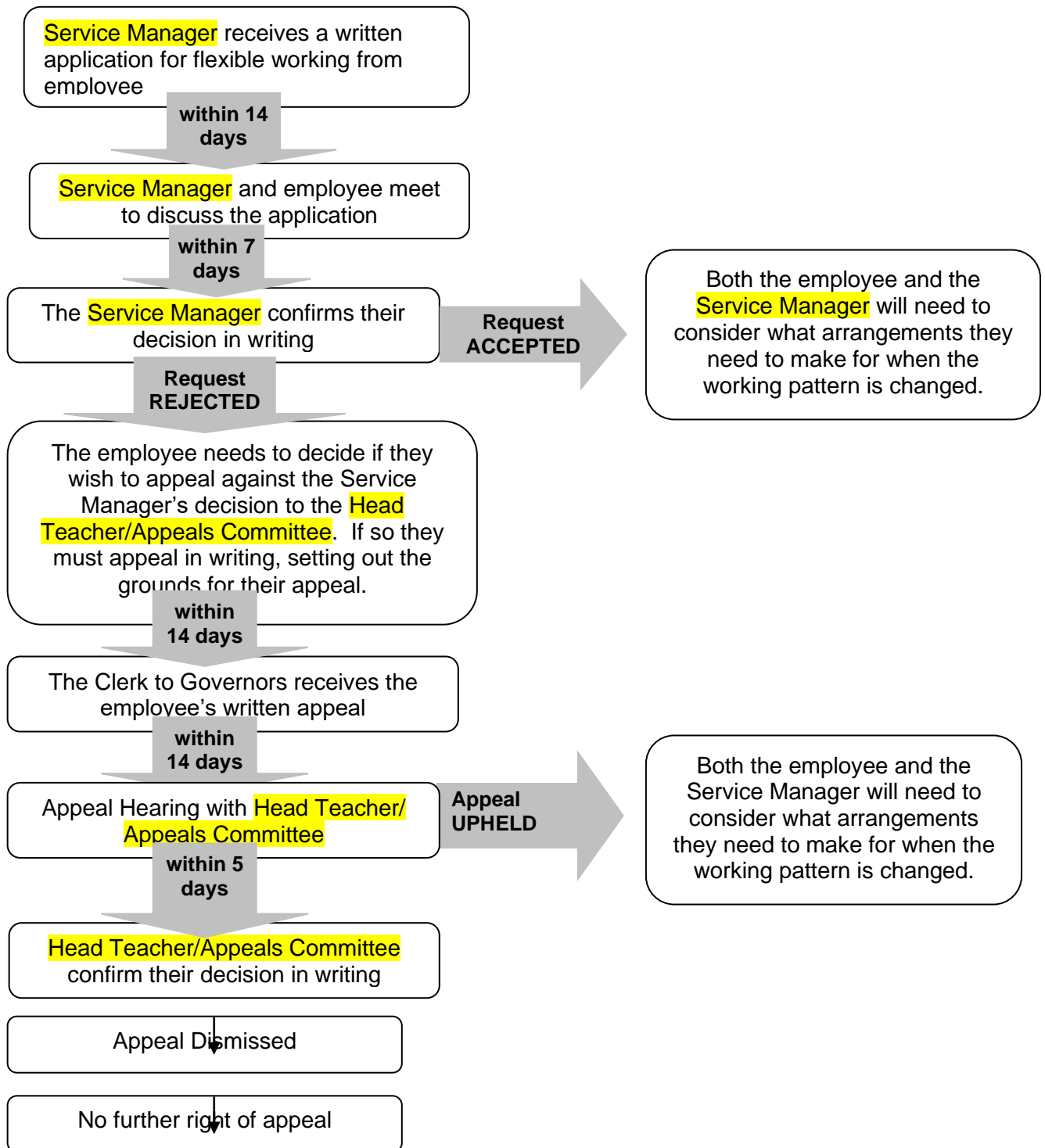
#### 12.3 The employee decides to withdraw the application

A Service Manager who is informed verbally that the application is withdrawn by the employee and does not subsequently receive written confirmation should contact the employee to confirm their intentions. Where the Service Manager does not receive confirmation from the employee, the Service Manager should confirm the withdrawal in writing.

#### 12.4 The employee fails to attend two meetings

In cases where employee misses two meetings without reasonable cause, the Service Manager may treat the application as withdrawn. It is therefore in the employee's best interests to inform their Service Manager as soon as possible if and why they are not able to attend a meeting. For example, if an employee misses a meeting for a reason such as their child falling ill and informs the Service Manager straight away, the Service Manager should treat this sympathetically. However, if an employee simply misses a meeting and does not explain why, then they can expect their absence to be treated less sympathetically. The Service Manager should warn the employee that they risk their application being treated as withdrawn if they miss another meeting without reasonable cause when rearranging the meeting.

#### 14. Flexible Working Flowchart



#### 15. Stage 2 – Meeting with Head Teacher/Appeals Committee

- a) The employee must put in writing his/her reason for being dissatisfied with the decision taken by the Service Manager.
- b) If such a request is made, the HR Manager will arrange a meeting 14 days of receipt of the request and prepare a written response for presentation to the Head Teacher.
- c) In the case of a member of SLT appealing the outcome of a decision in response to their flexible working request, the Clerk to Governors will arrange a meeting of the



Appeals Committee within 14 days of receipt of the request and prepare a written response for presentation to the Appeals Committee.

- d) The Service Manager and the employee (and/or representative as appropriate) may make oral representations to the Head Teacher. The Head Teacher may receive oral representations from other parties where they deem this to be appropriate.
- e) In the case of a member of SLT, the Head Teacher and the employee (and/or representative as appropriate) may make oral representations to the Appeals Committee. The Appeals Committee may receive oral representations from other parties where they deem this to be appropriate.
- f) Before the Head Teacher considers their decision, the Service Manager and the employee (and/or representative) should withdraw.
- g) In the case of a member of SLT, before the Appeals Committee considers their decision, the Head Teacher and the employee (and/or representative) should withdraw.
- h) The Head Teacher should consider the Service Manager's written response, any written statements and any oral representations made to them before coming to a decision.
- i) In the case of a member of SLT, the Appeals Committee of the Governing Body should consider the Head Teacher written response, any written statements and any oral representations made to them before coming to a decision.
- j) The Head Teacher should consider the appeal and inform both parties verbally if possible on the day of the meeting and followed in writing of the outcome and of any recommendations made within 5 working days.
- k) In the case of a member of SLT, the Appeals Committee should consider the appeal and inform both parties verbally if possible on the day of the meeting and followed in writing of the outcome and of any recommendations made within 5 working days.
- l) The decision of the Head Teacher/Appeals Committee is final and exhausts the process.

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