



Woodlawn
School

Flexible Working Policy & Procedure

**Reviewed – February 2020
Revised – September 2017**

Section One – Flexible Working Policy

1. Introduction

101 *This Policy & Procedure sets out the approach of the School to handling requests for Flexible Working from employees who, in accordance with the Employment Rights Act 1996 and the Employment Act 2002, work under a contract of employment with The Governing Body of Woodlawn School.*

102 *We believe that the document offers clear and transparent guidance to ensure fairness in assessing requests from qualifying employees who wish a contract variation to enable more flexible working arrangements¹.*

103 *Governors recognise that some requests for flexible working may be dealt with more appropriately by alternative policies and procedures such as school leave of absence or sickness policies/procedures. Employees should therefore initially seek advice from their line manager as to the most appropriate route to ensure their request for flexible working can be considered.*

2. Legal Framework

201 *In compiling this document the Governing Body have ensured compliance with requirements of the Equality Act 2010, Part time Workers Regulations 2000, Employment Rights Act 1996 (as amended by section 47 of the 2002 Employment Act, subsequent Statutory Instruments and the Children and families Act 2014)² as well as best practice as contained within the ACAS Flexible Working Code of Practice.*

202 *The current legal framework provides an entitlement for all employees within school to formally request a permanent contract variation, if they fulfil the following criteria³:*

They have not made a formal application in the previous twelve months

They have been employed for a minimum 26 weeks with their current employer.

¹ The contract variation will normally consist of a request to adjust hours worked, times when required to work such as shift pattern or move to term time only or the base/establishment (where school is on split sites).

² The Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002; Flexible Working (Procedural Requirements) Regulations 2002; Flexible Working (Amendment) Regulations 2006 & 2007; Flexible Working Regulations (Eligibility, Complaints and Remedies) Amendments regulations 2009.

³ There may be occasions where these criteria conflict with more favourable statutory regulation or collective agreements for specific staff groups. Therefore advice will be sought from the school Link HR Business Partner before proceeding to disqualify a request on failure to meet these criteria.

3. Options For Flexible Working

301 ACAS guidance lists a number of options for flexible working and though we recognise this is not an exhaustive list, the governors believe it is helpful in allowing staff to understand the flexibilities available, subject to the needs of the school.

302 Common kinds of flexible working include:

- Part-time working – *example could include employees starting work later and finish early in order to take care of children after school*
- Flexi-time – *example could include employees required to work within essential periods but outside these 'core times' they often get flexibility in how they work their hours*
- Job-sharing – *typical example would be two employees who share the work normally done by one employee*
- Working from home – *examples of using new technology, makes communication with office and customers possible, via telephone, fax and email from home, car or other remote locations*
- Term-time working – *example of where an employee on a permanent contract takes paid and/or unpaid leave during school holidays*
- Staggered hours – *example could include employees in the same workplace having different start, finish and break times – often as a way of covering longer opening hours as part of the extended schools agenda*
- Annual hours – *example of calculating the hours an employee works over a whole year. The annual hours are usually split into 'set shifts' and 'reserve shifts' which are worked as the demand dictates*
- Compressed working hours - *example of such working practice would be where employees work their total agreed hours over fewer working days – such as a five-day working week is compressed into four days*
- Shift-working – *examples of this practice are more common where opening hours are over an extended period requiring more than one shift.*
- *Flexible/phased retirement* - allows the employee the opportunity, in some circumstances and with the employers consent, to access part/all of their pension as part of a reduction in hours. This will mitigate against loss of income from a reduction in annual salary.

4. Business Justification

401 *Any request from an employee under this policy requesting flexible working will be supported in principle and approved, except where to do so would have significant detrimental impact upon the effective running of the school and/or service delivery. It is therefore important for the employee to work with the school to minimise this impact as where agreement cannot be reached then the request may be declined. Where a request is declined then this must be evidenced – examples may include one or more of the following:*

Inability to meet curriculum & logistical needs of service – examples may include evidence of disruption to time limited projects or disruption to pupil learning or delivery of IEP's, etc.

Inability to re-organise work amongst existing staff – examples may include a proposed change having a direct impact on other staff working arrangements or could be of a specialist nature that cannot be covered from existing staff.

Inability to recruit additional staff – example may include where attempts to

recruit to specialist subject or knowledge based post or short term temporary arrangements have been unsuccessful.

Burden of additional resources to implement proposed change – examples may include changes outside of the school day, disproportional additional training or other associated costs etc.

Significant detrimental impact on quality of service – examples may be related to teaching/learning impact upon the child or less efficient running of office/support systems.

Significant detrimental impact on performance of service – examples as above

Insufficiency of work during periods the employee proposes to work – example may include request for a change in shift pattern when proposed work is not available or more limited in nature.

Planned structural changes in school – example may include situation where the school is considering restructuring and the request for a variation has a potential impact.

402 *Any grounds for refusal and accompanied explanation MUST be provided to the employee in writing from the Headteacher following the initial request or any subsequent Appeal Panel that considers a request.. Such correspondence to be issued within the timescales as set out in this policy & procedure.*

5. Aims of Flexible Working

501 *The Governing Body accepts its responsibilities in assisting employees to balance their work and home life, noting that effective practices to promote flexible working will benefit not only the employee, but also the school and the community it serves.*

502 *Though we recognise that employees do not have an automatic right to flexibility, we believe the promotion of flexible working arrangements can benefit the school by:*

- Increasing loyalty & commitment from employees
- Improving well-being
- Retaining valuable employees
- Reducing absenteeism and sickness
- Increasing the school's ability to deal with organisational change
- Giving more time for employees to focus on life outside work

503 *This Policy & Procedure has therefore been produced to facilitate discussion between the school and employee to encourage both to consider alternative methods of working within school.*

504 *In considering proceeding with a request, the school and employee concerned may wish, where appropriate, to seek advice on the implications of changes to contractual arrangements⁴ to ensure all parties are clear as to the consequences of any decision.*

⁴ Advice may be sought from the school Link HR Business Partner (school) or Trade Union/Professional Association (employee). For example there is no guarantee that a request to permanently change terms, if granted, may be altered in the future if an employee's circumstances change.

6. Principles of Flexible Working

601 *The Governing Body recognises the importance of maintaining good working relationships with employees and it seeks to achieve a working environment in which requests for flexible working can be discussed at an early stage, by encouraging open and honest communication.*

602 *However, we recognise that on occasion the ability of the school to accommodate a request for flexible working may not be immediately apparent and in such circumstances we have adopted the procedure accompanying this policy statement.*

603 *The Governing Body have agreed a set of principles to ensure a fair and consistent assessment of any request for flexible working, these being:*

- Requests are undertaken in accordance with the accompanying procedure contained within this document except where variations have been agreed by all parties and appropriately recorded.
- Employees will be provided with ongoing information on the progression of their application for Flexible Working by the Headteacher dealing with the request
- The employee raising the request will have the right to be represented by a work colleague or their trade union/professional association representative at any subsequent hearing or appeal
- That any decision is in line with good practice, particularly that advocated by the Advisory, Conciliation and Arbitration Service (ACAS) and taken without regard to a person's race, age, disability, gender, sexual orientation, religion, belief or position/role within the school.
- That requests will be approved in all cases, except where it can be shown that to do so would have a significant detrimental impact on the effectiveness of the school organisation and/or service delivery (see section 4 of this policy).
- Where a request is declined the employee will be given reasons in writing and informed of their right of appeal within the timeframes set by this policy & procedure.

7. Roles & Responsibilities

Governing Body

701 *The Governing Body will have overall responsibility for adoption and implementation of this Policy & Procedure for our school. They will be responsible for monitoring such requests ensuring equality of opportunity has been considered in decisions taken. They will also undertake a periodical review of the policy and consult on any subsequent amendments prior to adoption.*

Hearing/Appeal Panels

702 *Hearing stage: To consist of the Headteacher making the initial decision to assess any request received for changes in working arrangements and where appropriate suggest alternative solutions to reach agreement.*

Appeals stage: To consist of 3 members of the Governing Body appointed to assess the reasons for appealing against the decision taken at the hearing stage and where appropriate suggest alternative solutions to reach agreement.

Headteacher

703 *The Headteacher will have day-to-day responsibility for implementation of any decisions reached as part of this Policy & Procedure.*

Employees

704 *To be proactive in seeking an acceptable solution, through assessing the implication of their proposals on the running of the school and how they could be overcome. In doing so they should take into account when implementation will have the least impact upon the school⁵ and provision of appropriate notice for any change in contract variation.*

Trade Union/Professional Association Representatives

705 *The Governing Body recognise the important role played by recognised Trade Union/Professional Association representatives within this process and its our expectation the appointed representatives will:*

- *engage in a constructive manner with the school in any discussions relating to a request from one of their members seeking a variation in their contractual terms.*
- *support their members in seeking an acceptable solution, through assessing the implication of their proposals on the running of the school and how they could be overcome.*

8. Meetings, Hearings & Appeals

801 *Such persons or panel members as designated by the Governing Body's Standing Orders will carry out their official duties at all Hearings and Appeals under this Policy & Procedure and in accordance with 'The Governors Handbook', statutory requirements and other appropriate DFE Guidance⁶.*

802 *All parties involved at any stage, in dealing with any flexible working request, are entrusted to act in good faith and in accordance with the principles outlined within this Policy & Procedure.*

803 *Timescales referred to are based on current statutory guidance and should be regarded as maximum time limits. All parties may wish to work to facilitate a conclusion to this procedure as quickly as possible without compromising the principles as outlined in this policy.*

804 *Governors sitting as part of any Appeal Panel will not have been involved in an earlier stage or have prior detailed knowledge of the employees request.*

⁵ For example it may seem reasonable, where possible, to provide a term's notice – to allow the school time to make a reasoned decision – and for changes to take effect at the beginning of a term to reduce the impact on classroom delivery.

⁶Appropriate regard will be given to any advice received from representatives of Human Resources and/or Governor Services to ensure meetings, hearings and appeals are handled in an appropriate manner.

9. Monitoring Arrangements

- 901 *To ensure consistency in dealing with flexible working requests the school staffing committee will monitor the outcome of all such requests as part of its ongoing monitoring role, noting the number of applications, number rejected and business rationale for such rejection.*

Section Two – Flexible Working Procedure

10. Receipt of Application

- 1001 *It is the responsibility of the employee to provide information necessary to allow an informed decision to be made on their request for flexible working. To ensure sufficient information is available they may wish to discuss the details of their proposals with their line manager prior to completion.*
- 1002 *Any request can be through letter or e-mail or via the application form that accompanies this procedure at **appendix 1**. Any such request should contain the following information from the employee to allow the Headteacher to assess their request:*
- Specify the flexible working pattern (current and proposed)*
 - When the proposed change would take place*
 - What effect they feel it will have on the school (if any)*
 - How these effects could be accommodated (where identified)*
 - Whether the request is for a temporary or permanent change (where applicable)*
- 1003 *The written request must be presented to the Headteacher clearly stating that they are invoking their right under this policy, as approved by the Governing Body, to request an amendment to their working arrangements. A flowchart is attached at **appendix 2** showing the stages involved in applying this procedure in school.*
- 1004 *The Governing Body have determined that where such requests for flexible working arise the Headteacher will have delegated authority to consider the request and make a determination in this matter no more than 10 Standard working days after receipt of the application from the employee.*
- 1006 *The outcome of this decision will be either:*
- (a) Agree to accept the request for a contract variation; or*
 - (b) Agree to hold a meeting (hearing) with the employee to discuss the proposed new working pattern⁷.*
- 1007 *Where the Headteacher agrees to implement the proposal (option (a)) they should write to the employee and include a description of the new working pattern and date of implementation. (Example letters can be found at **Appendix 3**). This correspondence will be issued within 5 standard working days of the decision.*
- 1008 *Where the Headteacher is unable to agree the request then they should write to the employee and invite them to a Hearing (option (b)). This correspondence will be issued within 5 standard working days of the decision and should include:*
- *date, time and place of the Hearing (providing at least 10 days notice to the employee)*
 - *the nature of the request for flexible working received from the employee*

⁷ It is strongly advised to contact the school HR Business Partner to discuss any proposed working pattern prior to any hearing with the employee. The HR Business Partner may support the Headteacher at such a meeting.

- The rationale why in its present form, the request cannot be supported
- the right of the employee to be represented by a work colleague or a trade union/professional association representative⁸
- copy of the school policy & procedure relating to flexible working

1009 This letter will be considered formal notice of the hearing and will include a request for the employee, represented by their work colleague or trade union/professional association representative (where applicable) to:

- confirm whether or not they will attend the Hearing and if they are to be accompanied and, if so, by whom,
- submit in writing any additional information in support of their request at least 5 standard working days prior to the Hearing⁹.

11. Hearing

1101 *The purpose of this meeting is to provide both parties with the opportunity to assess in detail the viability of any request for more flexible working arrangements. If the original request cannot be accommodated it allows the opportunity to explore alternatives and where possible develop a compromise solution acceptable to both the employee and school. **Appendix 4** shows the procedure to be followed at this meeting.*

1102 *The Headteacher will write to the employee within 5 standard working days detailing the outcome of the meeting.*

1103 *Depending on the decision, the letter sent to the employee should contain the following information: (Example letters can be found in **Appendix 3**)*

(a) Accepting an employee's application: the letter should::

Be dated

Contain a description of the new working pattern (and, where applicable the date of review if temporary)

Include the date when the new working pattern will be effective from

(b) Agreeing a compromise solution: the letter should: :

Be dated

Contain a description of the agreed compromise working pattern (and, where applicable the date of review if temporary)

Include the date when the new working pattern will be effective from

⁸ If the employee or their trade union / professional association representative or work colleague is unable to attend the date set for this meeting, then the employee is required to seek an alternative date to be held **within 7 standard working days** of the original meeting. Where the trade union /professional association representative or work colleague is an employee of the school they must be given paid time off work to attend this meeting.

⁹ Please note: any additional documentation held by the employee and/or their TU representative and not contained within the above papers will only be considered with the consent of the Headteacher after discussion with the supporting HR Business Partner.

(c) Rejecting an application: the letter should :

Be dated

Contain the “business grounds” for the refusal; including detail why the business grounds(s) specified will apply for the case in question (see section 4) and outlining the significant detrimental impact on school.

Include details of the employees right of appeal

Include the right of the employee to be represented by a trade union / professional association representative or accompanied by a work colleague at such an appeal.

12. Appeal Panel Meeting

- 1201 *Where an employee wishes to appeal against a rejection of their application they must set out their reasons for doing so in writing. This may be additional information not available during the original meeting with the Headteacher, or may focus on questioning the business reason given for refusal and their impact on school. The employee has 5 standard working days in which to make such an appeal from the date they are in receipt of the decision at the hearing stage.*
- 1202 *A panel of 3 governors will undertake the appeal, providing at least 10 standard working days notice to the employee of the date of this meeting.¹⁰ The function of this appeal panel meeting is to provide the employee with a final opportunity to present their case for flexible working arrangements. The appeal panel may clarify points prior to making a decision. **Appendix 3** shows the process of this appeal panel meeting. The decision of the appeal panel is final.*
- 1203 *The Clerk to the appeal panel will write within 5 standard working days outlining the appeal panel decision.*
- 1204 *Depending on the decision, a letter must be sent to the employee containing the following: (Example letter can be found at **Appendix 3**)*

(a) Original decision not upheld: a letter from the appeal panel should:

Be dated

Contain a description of the new working pattern (and, where applicable the date of review if temporary)

Include the date when the new working pattern will be effective from

(b) Agreeing a compromise solution: a letter from the appeal panel should:

Be dated

Contain a description of the agreed compromise working pattern (and, where applicable the date of review if temporary)

¹⁰ Any panel appointed should consist of three members of the Governing Body. Governors with a pecuniary or prejudicial interest in the outcome (such staff Governors) may not sit on either the Hearing or Appeal panels and should declare this at the earliest opportunity where this becomes apparent. Where Governors are unsure of their interest is prejudicial should discuss this with the manager of Governors Services.

Include the date when the new working pattern will be effective from

(c) Original decision upheld: a letter from the appeal panel should:

Be dated

Contain the “business grounds” for the refusal; including detail on the significant detrimental impact on school arising from the business grounds(s) specified (see section 4). Confirm that the school internal procedure has now been exhausted.

13. Additional Information

Timing and/or Rescheduling

- 1301 *The timings and location of any meeting, or subsequent hearings and appeals under this procedure will be reasonable and each step in the procedure will be taken without unreasonable delay. Any request for a contract variation must be processed through to final appeal within 3 calendar months, following receipt of the initial request, unless otherwise agreed by both parties.*
- 1302 *The employee must take all reasonable steps to attend any meetings, or subsequent hearing and appeal arranged to discuss their request for flexible working*

Withdrawal of Application

- 1304 *The employee can at anytime in the process formally withdraw their application for flexible arrangements. If the employee fails to attend on two occasions a hearing or appeal without just cause then the employer will treat the request as withdrawn and write to the employee confirming this decision.*
- 1305 *Where an employee has previously made an application under this procedure, a further application will not be considered for at least twelve months (following the date upon which the previous application was made) except in exceptional circumstances and with the agreement of the chair of the staffing committee.*

Representation

- 1306 *The employee has the right to be represented by a work colleague or their trade union/professional association representative at any subsequent Hearing or Appeal. The Headteacher assessing the request for flexible working has a right at all stages to be supported, for example, by a link school HR Business Partner or management colleague.*

Adjournment

- 1308 *Every effort will be made to resolve an employee’s request for flexible working as quickly as possible; however, the Governor panels reserve the right to adjourn the hearing or appeal before providing a decision.*

Pension Arrangements

- 1310 *Employees need to be aware that their request for flexible arrangements under this policy may, where it involves changes in terms and conditions have implications on pension contributions and level of pension upon retirement. Unfortunately, the school is not in a position to offer detailed advice to employees on such personal financial matters as this and advise staff contact their pension scheme provider directly or to seek advice from their trade union/professional association.*

Appendix 1

Application for Flexible Working

Woodlawn School

Name:

Employee No:

Home Address:

Post:

Proposed Change:

Start Date: / /

**Request made under statutory
Regs? (Section 2) Y/N**

Proposed Change:

End Date (if applicable) / /

Please provide details of current work pattern (e.g. hours/days worked/shift pattern)

Please provide details of your proposed work pattern (e.g. hours/days/shift pattern)

Please give details of your reasons for requesting flexible working

How do you feel the school can accommodate the arrangement?

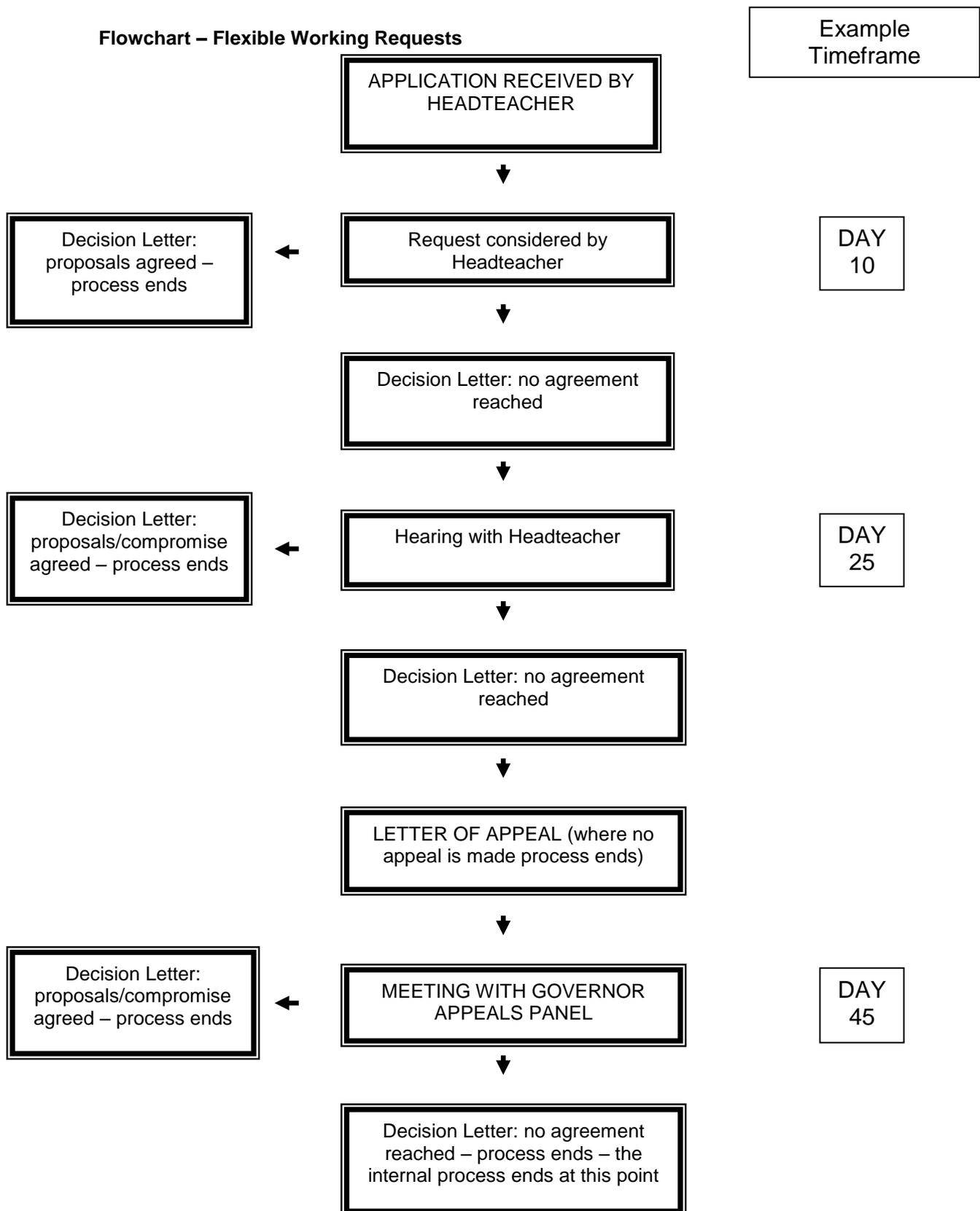
NOW PLEASE FORWARD THIS FORM TO YOUR HEADTEACHER ASAP

HEADTEACHER: Comment on proposed contractual change

| | | |
|------------------------------|---------------------------------|----------------------------------|
| Application Supported | <input type="checkbox"/> Y/N | Signature of Headteacher: |
|------------------------------|---------------------------------|----------------------------------|

Appendix 2

Flowchart – Flexible Working Requests



Appendix 3

Example Initial Decision Letter

The Headteacher has two options (a) to accept the proposal or (b) request a meeting with the employee.

| |
|--|
| Date: |
| Dear: |
| Following receipt of your application I have considered your request for a new flexible working pattern. Having taken into consideration your comments relating to how the school can accommodate your request, together with an assessment of the impact the proposed change will have on the needs of the school, I can confirm the following: |
| (a) That the school are in a position to accommodate your application |
| Your new working pattern/location will be as follows: |
| Your new working pattern/location will begin from: (date) |
| Or |
| (b) That I am currently unable to accommodate your original request due to concerns relating to its impact on (provide detail of business need and significant impact on school). I would therefore request you attend a meeting with me to hear your proposals in more detail. |
| I have therefore arranged a Hearing as per section 11 of this Policy & Procedure to be held on: (date/location) to discuss your proposals. I would be grateful if you could forward any additional documentation you wish to present to the panel in support of your request by: (date). All documentation made available to the panel will be forwarded to all parties in advance of the meeting. |
| You are entitled to be represented by a trade union/professional association representative or work colleague with you to this meeting. |
| Yours sincerely Headteacher |

Example Hearing/Appeal Refusal Letter

In any written refusal of a flexible working request, there is a requirement to explain the rationale behind such a decision. If an employee understands why a reason is relevant, they are more likely to accept the outcome and be satisfied that you have considered their application seriously - even if it isn't the outcome they wanted.

You do not have to go into a lot of detail, but you should include the key facts about why you have come to this decision. These should be accurate and relevant and relate to the specific application being considered.

| |
|---|
| Date: |
| Dear: |
| Following receipt of your application and our subsequent Hearing/Appeal <i>(delete as necessary)</i> held on: (date/location) I/we have considered your request for a new flexible working pattern. |
| Unfortunately I/We must confirm that the school are unable to accommodate your request for flexible working at this time for the following reason(s): |
| <i>(You should add applicable rational for decision referencing identified business reason(s))</i> |
| Examples: |
| <i>(a) the proposals outlined would have a detrimental effect on the ability of the school to meet curriculum & logistical needs of the service – Particularly in relation to the teaching and learning environment for the pupils you engaged to work with whom have a statement of special educational needs.</i> |
| <i>(b) the proposals outlined cannot be accommodated due to our inability to re-organise work amongst existing staff.</i> |
| <i>(c) the proposals outlined cannot be accommodated due to insufficiency of work during periods you are proposing to work.</i> |
| The grounds apply in the circumstances because: |
| <i>(you should provide detail of business need and significant impact on school).</i> |
| Examples |
| <i>(a) We have assessed the impact of the proposed change on the teaching and learning of the SEN pupils and their IEP's and have concluded that this proposed change would have a material impact on their progress. This decision was taken following advice from the school Education Psychologist.</i> |
| <i>(b) We have assessed the impact of the proposed change in your shift pattern from mornings to after school. However, we are unable to re-organise our staff to accommodate your request to clean classrooms at this time due to our extended schools provision occupying these facilities</i> |

(c) We have assessed the impact of your proposed change in shift pattern to move from mornings to afternoon support in the classroom. However, you are directly employed to support the teacher during morning Literacy/Numeracy hours within the classroom. The advice we have received from the Schools Advisory Service is that such activities are most appropriate during morning sessions and therefore are unable to accommodate your request for a contract variation.

(You should explain why any other work patterns you may have discussed at the meeting with the employee are also inappropriate at this stage).

Turning now to the alternative proposals you put forward at our meeting, again it is the view of the panel that unfortunately they did not materially alter the impact upon the school as identified above.

(You need to add details relating to any proposed appeal (only where this is the hearing outcome letter))

If you are unhappy with the decision at this stage (*only at hearing stage*) you may appeal against it. Details of the appeal procedure are set out below (insert details):

You have the right to be represented at such an appeal by a trade union/professional association representative or work colleague.

Yours sincerely

Headteacher/Chair of Appeal Panel (Hearing/Appeal)

Appendix 4

Suggested Format for Hearing/Appeal Panel Meetings

Introductions

The Headteacher/ Panel introduces all parties present and explains how the meeting will be conducted – including adjournments, refreshment breaks, expected behaviour, documentation etc – before confirming with the member of staff the flexible working request to be considered.

Presentation

By the member of staff (or their work colleague or trade union/professional association representative). Witnesses* called as/where necessary.

Please note: where more than one witness* is to be called as part of the presentation it is important that all parties are given the opportunity to question each witness*

Questions

The parties may ask questions relating to the presentation given by the member of staff (or their work colleague or trade union/professional association representative) in the following order:

Headteacher
Panel Members (at appeal stage only)

Presentation

By the Headteacher Witnesses* called as/where necessary.

Please note: where more than one witness is to be called as part of the presentation it is important that all parties are given the opportunity to question each witness prior to their being excused.

Questions

The parties may ask questions relating to the presentation given by the Headteacher (or Chair of the Hearing Panel where it is an Appeal) in the following order:

Member of staff (or their work colleague or trade union/professional association representative)
Panel Members (at appeal stage only)

Final statements

Will be taken in the following order:

Member of staff (or their work colleague or trade union/professional association representative)
Headteacher (at appeal stage only)

All parties then withdraw to allow the Panel to reach a decision. The supporting HR Business Partner (where in attendance) will remain during this stage as will the minute/note taker.

The parties may be asked to remain available for possible clarification of matters and be advised of the decision of the Panel.

*Witnesses – each witness will be required to attend on an individual basis and will only be required to attend the Hearing/Appeal to discuss their particular information. They will be required to attend the Hearing/Appeal prior to and after their required attendance. It is the responsibility of the parties calling the witnesses to ensure that witnesses are aware of their role and their attendance requirements.

Note: For appeal panels the order of actions undertaken by the chair of the hearing panel and the employee will be reversed from the above process.