



Sign:

Date: March 2023

Review: March 2025 or sooner if required

1 Scope

This policy allows all staff in schools who have completed at least 26 weeks' service to make a request for flexible working.

All requests for flexible working will be considered under this procedure. This policy deals with requests to change terms and conditions on a permanent basis. There are separate policies to deal with requests for emergency domestic and family leave.

2 Purpose

This policy and procedure is intended to assist employees, where possible and practicable, to achieve an appropriate work/life balance. It recognises that some staff have caring responsibilities that may affect their participation in working life.

3 Policy statement

The governing body is committed to supporting staff who have responsibilities outside work or who wish to work flexibly for any reason. This policy enables any member of staff to request a change to their terms and conditions of employment in relation to:

- the hours they work;
- the times when they are required to work; and/or
- the place at which they are required to work (particularly the balance between home and the workplace).

4 Legal considerations

Employment law enables all employees, subject to certain service requirements, to make a request for flexible working, and places a duty on employers to consider such requests seriously and only reject them for good business reasons. This policy meets the requirements of the relevant legislation. An employee may complain to an employment tribunal (ET) that his or her employer has refused to allow him or her to be accompanied at any of the meetings associated with his or her request. This complaint must be lodged within three months of the failure and, if found by the ET, compensation of up to two weeks' pay (capped at the statutory limit on a week's pay) may be ordered.

The employee and/or any colleague who has accompanied him or her has the right not to be subject to any detriment for exercising his or her right to be accompanied or acting as the colleague or for bringing a flexible working request.

Any dismissal relating to the right to request to work flexibly is automatically unfair and the employee does not need the usual two years' continuous service to qualify to make a claim.

If the employer fails to follow the statutory procedure to consider an employee's request to work flexibly the employee can complain to an ET. This could include failing to meet timescales, hold meetings, follow up in writing or provide reasonable grounds for refusal. It also includes basing a refusal on inaccurate facts. The complaint must be submitted within three months of the breach occurring and if successful the tribunal can make an award of up to eight weeks' pay in compensation (capped at the statutory limit on one week's pay).

5 Roles and responsibilities

Employees: Employees are required to submit a written request for flexible working and attend a meeting with the headteacher to discuss its implications.

Headteacher: The headteacher, or school manager with the appropriate delegated authority, should give full and proper consideration to the request and be aware of the legal framework that affects requests that fall under the statutory provisions.

Governing body: The governing body will be responsible for hearing appeals arising from this procedure.

6 Flexible Working Procedure

6.1 Eligibility

All requests for flexible working must be made using this procedure, and the headteacher should follow the process set out below.

The employee must meet the following criteria to be able to make a request to work flexibly:

1. has 26 weeks' continuous service with the employer; AND
2. has not have made another application within the previous 12 months;
b) .

The employee must be able to prove that he or she meets the above criteria.

If a request for flexible working stems from a period of ill health, an employee should submit a request using this procedure, although the discussion with the headteacher regarding the detail of the request will usually be considered at a meeting held under the sickness absence management process.

6.2 Making a request

An employee must make a request for flexible working in writing and state the following:

- that it is a formal request for flexible working;
- the working arrangement(s) requested;

- the proposed effective date;
- what effect, if any, the employee thinks their request would have on the school and suggestions of how this may be overcome; and
- whether any previous request to work flexibly has been made and, if so, when.

An Application for Flexible Working Form is provided for this purpose and is available on the Northumberland Schools' Network, although an application may be submitted by letter, email or fax.

6.3 Meeting with the employee

On receiving an application the headteacher will meet with the employee to discuss their request. This will take place as soon as practicable after receiving the application and the employee will be allowed to be accompanied by a trade union representative or a work colleague. The employee should make all reasonable attempts to attend the meeting. If the employee or his or her representative is not available for the meeting then an alternative time suitable for all parties should be agreed. The headteacher will keep a written record of this meeting.

The following should be clarified at the meeting:

- how the request to work flexibly can be accommodated;
- the proposed change to terms and conditions e.g. proposed working hours and pattern; and
- reasons for the request: further information regarding the circumstances may need to be clarified .

6.4 Consideration of the request

The headteacher must give serious and full consideration to all requests to work flexibly and specifically consider the legal framework set out below.

The headteacher will notify the employee of their decision, in writing, as soon as practicable after the meeting has taken place. If the matter has not been fully dealt with in the initial response, the manager should at the same time inform the employee of the date by which a full reply can be expected. The decision must be communicated within three months of the application first being received unless a longer timescale is mutually agreed with the employee.

6.4.1 Agreeing the request to a permanent change

If the proposal the employee has made is acceptable, the headteacher should confirm this in writing stating the date from which it will become effective. If the requested change of working arrangements is accepted, the new terms and conditions that apply are permanent. The employee has no right to return to his or her old terms and the school has no right to enforce a return unless a trial of the new terms has not proved successful.

6.4.2 Agreeing the request on a trial basis

The headteacher may decide to offer the new way of working on a trial basis initially if it is not sure what the impact of it will be on the organisation. In such circumstances, the change to the employee's terms and conditions of employment during the trial period is a temporary change to his or her terms and conditions of employment.

If the trial is not successful, the employee will revert back to his or her previous terms and conditions of employment. If the requested change of working arrangements is accepted at the end of the trial then the temporary terms and conditions will become permanent.

In such circumstances the school should also clearly spell out:

- that its agreement to the employee's flexible working request is subject to the outcome of the trial period;
- the length of the trial period (i.e. when the period starts and when it ends);
- that the change to the employee's terms and conditions of employment during the trial period is a temporary change to his or her terms and conditions of employment;
- the temporary changes to the employee's terms and conditions of employment during the trial period (for example, a change in working hours); and
- the date that the employee will revert back to his or her previous terms and conditions of employment if the employer disagrees with his or her flexible working request (the period between that date and the expected date that the employee will be notified of the employer's decision about his or her flexible working request should give that employee sufficient time to re-adjust to his or her previous terms and conditions of employment. For example, the employee should be given sufficient time to put back in place previous childcare arrangements. In effect, this will extend the length of the trial period.)

6.4.3 Refusing the request

A request should only be refused on one or more of the following grounds:

- the burden of additional costs (including the cost of any Local Government Pension Scheme fund strain as a result of early payment of pension benefits if the request is part of an application for flexible retirement);
- a detrimental effect on ability to meet customer demand;
- inability to re-organise work amongst other existing staff;
- inability to recruit additional staff;
- detrimental impact on quality of service;
- detrimental impact on performance;
- insufficient work during the periods the employee proposes to work;
- planned structural changes.

If the request is declined, the headteacher must notify the employee in writing, setting out the business grounds and why they apply, and the employee's right to appeal. The letter should be dated. The reason(s) given should be set out clearly, and be accurate and relevant. The

school should ensure it retains an evidence base to support any action taken.

Involving other members of the team in the decision to accept a request or not can be an effective way of resolving any conflict from colleagues at an early stage.

6.4.4. Making a further application

If an application is refused, or changes are agreed and implemented, a further application will not be considered until a year has elapsed from the date on which the first application was made.

6.5 Appeal

If an employee is dissatisfied with the outcome of their application, they have the right to appeal that decision within three months of first receipt of that decision. The appeal must be in writing and addressed to the Chair of Governors; the letter should set out in detail the grounds for the appeal.

An appeal meeting will take place involving an appeals committee of the governing body and the employee as soon as practicable after receiving the notice of appeal.

The decision of the appeals committee will be notified to the employee in writing as soon as practicable after the meeting. If the appeal is dismissed, the letter will state the grounds for dismissing the appeal and provide sufficient explanation of those grounds. If the matter is not fully dealt with in the initial response, the appeals committee should at the same time inform the employee of the date by which a full reply can be expected.

This stage concludes the procedure at school level. However, employees have a statutory right to pursue a claim at an Employment Tribunal on the basis that the school failed to comply with its duties in relation to the employee's request or that the employee suffered a detriment as a result of having made a request.

7 Special circumstances

7.1 Timescales

Timescales may only be extended by mutual agreement of both the employee and the school. The headteacher should confirm any time extensions in writing, setting out what the extension is for and when it ends. The letter should be dated and sent to the employee. Adjustments to the timescales are also allowed where the headteacher is absent from work due to, for example, sickness or school holidays.

7.2 Withdrawing an application

A request to work flexibly can be withdrawn at any time before it has been accepted and any new terms and conditions agreed and put in place. An employee who withdraws his or her application will not be eligible to make another flexible working request for a further 12 months.

If an employee fails to attend more than one meeting arranged to discuss the request and does not provide a reasonable explanation, the headteacher may assume that the application has been withdrawn. The school may also treat an application as withdrawn if the employee does not provide the required information. In these circumstances the headteacher should confirm the withdrawal in writing to the employee.