

## SOLIHULL METROPOLITAN BOROUGH COUNCIL

# Flexible Working

This policy sets out the terms reached by those participating in the Council's Consultation and Negotiation Framework

**For School's (e.g. some Academies) not participating in the Council's Consultation and Negotiation Framework**

This Model Policy was provided by the Solihull School's HR Service.

The school must undertake negotiation and consultation with relevant Trade Union/ Staff Association representatives before this policy is adopted by the School Governing Body. Advice is available from your HR provider on how to undertake this if required.

## Flexible Working Policy

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### Guidance Documents available in a separate document

1. Types and Benefits of Flexible Working Arrangements
2. The Right to Request Flexible Working Application Form
3. Letter acknowledging receipt of Flexible Working Application and invitation to meeting
4. Letter extending time limit
5. Letter agreeing to employee's request for flexible working
6. Letter declining a request for flexible working
7. Frequently asked questions
8. Agenda for flexible working meeting
9. Attitudes to flexible working
10. Business reasons to consider in a request to work flexibly

## INTRODUCTION

The Council is committed to Agile Working as this will enable an agile, knowledgeable and motivated workforce to deliver services that improve lives. The Council seeks to promote and create opportunities to work in a more flexible way to meet the needs of our service users.

Flexible working can increase staff motivation and retention, reduce absenteeism, attract new talent, promote work-life balance and reduce employee stress, which will lead to improved organisational performance.

From 30 June 2014 all employees who have a minimum of 26 weeks' continuous service have the right to request flexible working and to have their request considered seriously by their employer.

Attached are guidance documents which must be read in conjunction with the application of this policy and procedure. These documents provide further clarity on the context in which the policy and procedure has been developed and agreed. Further advice can be obtained from Human Resources, Teacher Associations or Trade Union representatives.

The Council also has an Agile Working Policy which sets out a framework whereby services/ ways of working can be provided in more effective, flexible ways which meets the needs of a modern workplace. Agile working is the term used by the Council to describe how services can be reconfigured resulting in employees working in different locations or by varying degrees of hot desking and/ or home working. This is different from flexible working which is an individual rather than a service wide arrangement.

## SCOPE OF POLICY

This policy applies to all employees. It does not apply to agency staff or contractors.

**Note:** *unless specified otherwise in this policy, the term 'manager' is used generally to include line manager, supervisor, team leader, manager, senior manager, head teacher or senior member of staff.*

## PURPOSE

The Council/Governing Body recognise the importance of helping employees balance their work and home life. By offering flexible working arrangements the Council/Governing Body can enable them to balance their working life with other priorities, including parental and caring responsibilities, life long learning, volunteer work, leisure activities and other interests. In turn, it recognises that staffing levels must at all times remain in line with the demands of the business.

This policy refers to the right to request flexible working arrangements as a contractual change and not to flexi-time arrangements .

## **ROLES AND RESPONSIBILITIES**

### **Manager/ Head teacher**

- Consider requests in accordance with the policy.
- Adhere to timescales within the policy.
- Ensure consistency and fairness when applying the policy.
- Deal with the request in a reasonable manner.
- Provide on-going support and information during the course of the application.
- Be prepared to be flexible and endeavour to reach a satisfactory agreement with the employee.
- Decline a request only when there is a clear business reason and to explain why in writing to the employee.
- Ensure that any variation in the policy is agreed in advance with the employee and recorded in writing.
- Ensure an employee does not suffer a detriment as a result of submitting an application.
- The outcome of the application is recorded and given to the employee in writing.

### **Employee**

- Provide an application that gives the reason(s) for requesting flexible working.
- Ensure their application is valid by checking they meet the eligibility criteria.
- Ensure they have provided all the necessary information.
- Ensure that the application is made at least 3 months before they wish it to take effect. Applications made within 3 months may be accepted in exceptional circumstances
- Participate fully in the process, to attend meetings and to discuss their application openly and constructively.
- Be prepared to be flexible and endeavour to reach a satisfactory agreement with their manager/ head teacher.

## Human Resources

- Provide advice and guidance to managers and employees to ensure the right to request flexible working process is followed correctly.
- Monitor applications to ensure fairness and consistency.
- Support the manager/ head teacher in meetings if requested and/or at an appeal.

## **PROCEDURE**

### Eligibility

The Children and Families Act 2014 extends the right to request flexible working to all employees.

To be eligible

- Employees will have a minimum of 26 weeks' continuous SMBC service on the date the request is made.
- Employees will not have made another application for the same reason under this policy during the past 12 months. This timeline may be waived in exceptional circumstances.

### Requests for flexible working

A request for flexible working could include a request for a change to the number of hours that the employee works, the pattern of hours worked, or the work location, including a request to perform some or all of the work from the employee's home. Different flexible working arrangements are provided in the Toolkit - Guidance Document 1.

All requests must be made in writing; the requisite application form (Toolkit- Guidance document 2) should be used for this purpose.

Where a request for flexible working has been received, the decision should be made within **3 months of the application date**. This period can be extended by agreement.

The manager/ head teacher must acknowledge receipt of the employee's flexible working request.

If the application is incomplete, the employee should be asked to resubmit their application and advised that it will not be considered until it is resubmitted. If an employee unreasonably refuses to provide all the required information, the application should be treated as withdrawn and the employee will not be able to submit a further application for another 12 months.

### **Meeting to discuss a flexible working request**

Once the manager/ head teacher receives the request, it will be dealt with as soon as possible.

A meeting must be arranged within 20 working days of receiving the valid application. Every effort should be made to arrange the meeting within the timescale indicated, however, if it is not possible the employee's agreement should be sought to extend the timescale.

Failure to hold the meeting within the 20 working day period or any extension, without the employee's agreement, will be a breach of the procedure.

The employee has the right to be accompanied by a work colleague, Trade Union representative or person nominated by the Trade Union.

If the representative is unable to attend the meeting, the employee must seek to rearrange the meeting and it should take place within 5 working days of the date of the original meeting.

The meeting should take place in a private meeting room/ quiet room/ breakout area so that the discussion is kept away from other employees.

The purpose of the meeting is to find out more about the proposed working arrangements, how they could be of benefit to both the employee and the Council/ school, and to discuss in a spirit of collaboration how the employee's request might be made to work in practice.

### **Outcome of a flexible working request**

After the meeting, the manager/head teacher will consider the proposed flexible working arrangements carefully, weighing up the potential benefits to the employee and to the organisation against any adverse impact of implementing the changes.

Each request will be considered on a case-by-case basis: agreeing to one request will not set a precedent or create the right for another employee to grant a similar change to his/her working hours, pattern or location.

The manager/ head teacher will have regard to any equality and diversity considerations when considering the request.

Where an agreement cannot be reached on the working hours, pattern or location requested, all parties are encouraged to try to reach agreement on appropriate and alternative arrangements.

The manager/ head teacher will notify the employee of the decision within 10 working days of the decision.

## **Flexible working request that has been agreed**

If the flexible working request is agreed, the employee and line manager/ head teacher will discuss how and when the change(s) will take effect. This must be confirmed in writing. The manager should notify Human Resources who will formally notify the employee of the variation to their terms and conditions of employment. (please refer to guidance document 5).

## **Reasons for turning down a flexible working request**

Where the flexible working request cannot be accommodated the manager/ head teacher should notify the employee using the template letter provided (please refer to guidance document 6).

The manager/ head teacher will give reasons for the rejection of any request. Those reasons must be for one or more prescribed business reasons, which are;

- planned structural changes to the business
- the burden of additional costs.
- a detrimental impact on quality.
- the inability to recruit additional staff.
- a detrimental impact on performance.
- the inability to reorganise work among existing staff.
- a detrimental effect on ability to meet customer demand.
- lack of work during the periods the employee proposes to work.

Where a request is rejected, the reason for declining must be one of the above reasons. Managers/head teachers are not entitled to invent their own reasons however compelling they may think another reason might be.

There must always be robust evidence to support the reason for declining an employee's request. This will be necessary and referred to in the case of an appeal.

## **Appeal**

If the manager/ head teacher decides that it is necessary to decline the employee's request for flexible working, the employee must be advised of the right of appeal against that decision and that any such appeal must be lodged within 10 working days.

For an appeal to be valid it must:-

- Be in writing.
- Set out the grounds of the appeal
- Be dated.

In the event of an appeal, arrangements should be made for it to be heard by a nominated manager. The employee must be granted the right to be accompanied at the appeal hearing by a work colleague or Trade Union representative or a person nominated by the Trade Union.

The appeal hearing must take place within 10 working days of the employee's appeal being lodged and the outcome of the hearing must be communicated to the employee in writing within a further 10 working days.

If the appeal is upheld the notification should specify the changes to the employee's terms of employment and the date from which the changes are to take effect.

If the appeal is not upheld the notification of the decision must explain the grounds on which the refusal is based and the reasons why these grounds apply to the particular case.

The Appeal process must be completed within the statutory 3 month period in which the request for flexible working takes place.

The Appeal decision will mark the end of the request for flexible working process. This does not prohibit future requests being made.

#### School Based Staff only

The notice of appeal should be sent to the Chairperson of the Governing Body who shall acknowledge its receipt in writing.

The Governing Body shall set up an appeal panel of three governors who have not previously been involved in the case.

The employee must be informed of the outcome of the appeal in writing within 10 days of the date of the meeting by the appropriate manager or Chairperson of the Appeals Committee.

#### **Trial period for flexible working arrangements**

A trial period can be beneficial for both parties, especially where there is some doubt as to the viability of the working arrangements requested by the employee. It can provide both the manager/ head teacher and the employee with an opportunity to review how the arrangements work in practice and whether or not they are likely to create any practical difficulties for the employee's department or for the business as a whole.

At the end of any agreed trial period, the manager/ head teacher should hold another meeting with the employee to review how the revised working pattern has worked out and whether or not to make the arrangement permanent.

If the trial period is agreed, the manager/ head teacher should document that the new working pattern has been put in place as a temporary variation to the terms of the employee's contract.

The start and end date of the trial period should be stated, along with the changes that have been agreed. It should be clearly recorded that the employer reserves the right, at the end of the agreed trial period, to require the employee to revert to his/her previous working pattern if, in the manager/ head teachers view, the changes have not proved to be workable. In such cases the employee shall retain the right to raise an appeal.

The document should be signed by both parties.

### **Informal flexible working requests**

If the manager and employee think that a flexible working arrangement resulting in a permanent change to the employee's contract of employment may not be the best solution, an informal temporary arrangement may be considered. For example, this may be appropriate where the employee suddenly becomes the carer of an adult with a terminal illness or they have to care for someone with a fluctuating medical condition. Any agreement must be in writing.