

FLEXIBLE WORKING POLICY AND PROCEDURE

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CONTENTS

- 1.0 Introduction
- 2.0 The statutory right to request flexible working
 - 2.1 Information required within a request
- 3.0 Flexible working and Disability
- 4.0 Consideration process
 - 4.1 Formal meeting to discuss a request
 - 4.2 Invite to meeting
 - 4.3 At the meeting
 - 4.4 Making a decision
 - 4.5 Refusing a request
 - 4.6 Accepting a request
 - 4.7 Confirming the decision
- 5.0 Withdrawal of a request
- 6.0 Appeals
 - 6.1 Lodging an appeal
 - 6.2 Invite to an appeal
 - 6.3 Outcome of an appeal
- 7.0 Review

APPENDIX

- A Process Flowchart

1.0 INTRODUCTION

This policy and procedure applies to all employees of School Partnership Trust Academies (SPTA).

At all stages within this policy and procedure, and in accordance with the Equality Act 2010, provision will be made for any reasonable adjustments to accommodate the needs of individuals attending meetings.

This policy is designed to ensure that SPTA deals properly with written requests made by employees to change their working hours or place of work under the statutory right in the Employment Rights Act 1996 to request flexible working.

SPTA acknowledges the importance for employees in achieving a balance between work and personal commitments and will endeavour to grant requests where possible.

This procedure has been drawn up to comply with the changes to legislation from 30th June 2014 and with the associated “ACAS Code of Practice on handling in a reasonable manner requests to work flexibly” (03/14).

2.0 THE STATUTORY RIGHT TO REQUEST FLEXIBLE WORKING

Every employee has the statutory right to ask to work flexibly after 26 weeks employment service. The statutory right to request flexible working does not extend to Agency workers or those who have not been employed for 26 weeks.

An employee can only make one statutory request in any 12 month period.

A request to work flexibly involves changing the terms and conditions of employment on either a permanent or temporary basis. If the change requested is for a temporary period, this should be made clear from the outset. Where a permanent change is agreed, there is no automatic right to return to pre-existing working arrangements at any time.

Where working hours are reduced, there will be an impact on the employee’s pay and benefits and they should seek independent advice before committing themselves to any contractual changes.

Every employee has the statutory right to request:

- A change to their working hours
- A change to the times they are required to work
- A change to their place of work

Employees can therefore request a variation of their employment contract in respect of (by way of example only):

- The hours they are required to work
- Part time working
- Job sharing
- Working term-time only
- The times they are required to work
- Working shifts
- Where they are required to work (as between their home and all SPTA locations)

2.1 INFORMATION REQUIRED WITHIN A REQUEST

A request from an employee under the Employment Rights Act 1996 and regulations made under it must be in writing and dated, and must include the following additional information:

- The change to working conditions they are seeking
- The date they would like the change to come into effect
- What effect, if any, they think the requested change would have on the academy/department and how, in their opinion, any such effect could be dealt with
- A statement that this is an application under the statutory right to request flexible working
- Details of any previous application for flexible working which has been made, including dates

3.0 FLEXIBLE WORKING AND DISABILITY

SPTA has a duty to consider reasonable adjustments for disabled employees under the Equality Act 2010 and flexible working may be one way to help to keep a disabled employee in work. A change in the number of hours, pattern of work, place of work, or content of work may enable a disabled employee to contribute their full potential. Changes could be made on either a temporary or permanent basis depending upon the circumstances.

Flexible working can also provide the time needed for periods of rehabilitation for an employee who has just developed an impairment or a disabled employee whose condition has changed such that they require treatment or training to enable them to return to work effectively. Rehabilitation can include physiotherapy, counselling or training to develop skills that have been lost.

4.0 CONSIDERATION PROCESS

Once a written request has been received, it must be considered and dealt with reasonably, but this does not give the employee the right to a contract variation.

The law requires that all requests, including any appeals, must be considered and decided on within a period of three months from receipt of the written application, unless it is agreed with the employee to extend this period. Where possible, SPTA will ensure that decisions are made within this timescale.

4.1 FORMAL MEETING TO DISCUSS A REQUEST

The line manager should arrange to meet with the employee as soon as possible after receiving the written request.

The meeting should take place in a private place where the discussion can be confidential.

4.2 INVITE TO MEETING

The employee will be invited to attend a meeting, in writing, providing at least ten working days' notice of the date of the meeting.

The written notification will include the mutually agreed date, time and venue of the meeting and the employee's right to be accompanied by either a work colleague or trade union representative.

4.3 AT THE MEETING

The requested change(s) to the employee's working arrangements will be discussed and considered carefully.

During the meeting, there will be a discussion around the benefits of the requested changes in working conditions for the employee, the academy/department and weighing these against any adverse business impact of implementing the changes.

The meeting also provides the opportunity to discuss any alternative variations which would be acceptable to both the employer and employee.

It may be suggested that a trial period be considered for the proposed change(s).

4.4 MAKING A DECISION

Restrictions may be placed on the operation of flexible working if it is deemed necessary for the proper conduct of the business and in accordance with the permitted statutory grounds for refusal. The request may be refused where one or more of these criteria (listed in section 4.5) indicate that, in the current circumstances, the job can only be carried out effectively under current arrangements.

4.5 REFUSING A REQUEST

The statutory grounds for refusal are:

- The burden of additional costs
- An inability to reorganise work amongst existing staff
- An inability to recruit additional staff
- A detrimental impact on quality
- A detrimental impact on performance
- A detrimental effect on the ability to meet customer demand
- Insufficient work for the periods the employee proposes to work
- A planned structural change to the business

In deciding whether the above grounds are met, a wide range of criteria will be taken into account, including (by way of example only) the following:

- The business needs of the academy/department
- The suitability of the job for the flexible working arrangements proposed (e.g. the nature of the work, the hours needed and the need for continuity and consistency)
- The current balance of full time and part time employees and other flexible working arrangements within the academy/department
- The feasibility of covering the remaining hours

Managers may consider agreeing to a request on a temporary basis or for a trial period, where appropriate, rather than rejecting the request outright. In such cases, an appropriate extension to the decision period / timescales should be agreed with the employee as is necessary to review the arrangements and make any adjustments before finalising the agreement.

4.6 ACCEPTING A REQUEST

If the employee's request is accepted, or accepted with modifications, this should be discussed with the employee regarding how and when the changes might best be implemented.

4.7 COMMUNICATING THE DECISION

Having considered the request, the employee will be informed of the decision in writing which will:

- Accept the request and state the date on which the contract variation is to take effect;
- Confirm a compromise agreed at the discussion, such as a temporary agreement to work flexibly; or
- Reject the request, identifying on which of the permitted statutory grounds the application was refused and the reasons for this. Where the request is rejected, the letter will also set out the appeal procedure.

Once the request has been accepted, a permanent variation of the employee's contract will result. Once a permanent change has been made, the employee does

not have a statutory right to revert to their previous terms and conditions of employment. The manager should complete a 'change of contract' form for any agreed variations to send through to SPTA Executive Leadership Team (ELT) and payroll.

5.0 WITHDRAWAL OF A REQUEST

An application can be considered as withdrawn under the statutory provisions where the employee has:

- Notified their manager, orally or in writing, that the application is withdrawn
- Without reasonable cause, failed more than once to attend a meeting or appeal meeting
- Without reasonable cause, refused to provide their manager with information required in order to assess whether the contract variation should be agreed to

The employee will receive written confirmation of the withdrawal of their application. The employee will not be entitled to make another formal request until 12 months after their original application.

6.0 APPEALS

An employee may appeal against a refusal to grant a flexible working request if there is new information that was not available to the manager at the time they made their original decision or they think the application was not dealt with in a reasonable manner.

An appeal will be heard by two SPTA Directors ('the appeal panel'). In cases where the Principal / Senior Leader is the employee lodging the appeal, the appeal will be heard by two SPTA Directors alongside the Chair of the Education Advisory Body (EAB). If a Director was involved in the decision making process, they must not be involved in the appeal process. In all cases, SPTA HR will be present.

The manager making the original decision may be invited by either side to attend the appeal as a witness.

6.1 LODGING AN APPEAL

The employee should put their appeal in writing to the SPTA HR Department within ten working days of the receipt of the written confirmation of the decision regarding their request for flexible working. The employee should clearly outline the grounds of their appeal (see section 6).

6.2 INVITE TO AN APPEAL

The employee will be invited to attend a meeting to discuss the appeal, in writing, providing at least ten working days' notice of the date of the meeting.

The written notification will include the mutually agreed date, time and venue of the meeting and the employee's right to accompaniment by either a work colleague or trade union representative.

The appeal panel is responsible for ensuring a note taker is present at the appeal to take formal notes.

6.3 OUTCOME OF AN APPEAL

The details of the employee's appeal will be discussed during the meeting.

The appeal panel may decide to:

- Uphold the appeal
- Dismiss the appeal

If the appeal panel decides to uphold the appeal, the outcome letter will specify the contract variation that has been agreed and state the date on which it is to take effect.

If the appeal panel decides to dismiss the appeal, the outcome letter will state the grounds for the decision and an explanation as to why those grounds apply.

The decision of the appeal panel is final and there is no further right of appeal.

7.0 REVIEW

This policy will be reviewed every three years, or when there are changes to relevant legislation.

APPENDIX A – PROCESS FLOWCHART

