

Flexible Working Policy for staff working in schools

Ffederasiwn Ysgolion **Llanidloes** Schools Federation



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1. Introduction

- 1.1 The right to request flexible working was first introduced in 2003 for parents of young and disabled children, and the scope of the law has been extended since that time. A number of amendments to part 9 of the Children and Families Act 2014 extend the law further in that, with effect from 30th June 2014, all employees have a statutory right to request flexible working, provided they have continuous service of 26 weeks or more with their employer. This right allows employees to request a variation in their contract so that they can work more flexibly. It does not provide an automatic right to work flexibly as there will always be circumstances when the employer is unable to accommodate the desired work pattern. The right is designed to meet the needs of both employees and employers.
- 1.2 The law requires all requests to be dealt with within a period of 3 months from first receipt to notification of the decision on appeal. The timescales set out in this policy enable this requirement to be met. The time limit may be extended if both the employer and employee agree to this.

2. Roles and Responsibilities

2.1 Employees are expected to:

- work in partnership with Headteachers to explore more flexible ways of working;
- work to objectives;
- raise problems with their headteacher at the earliest practical opportunity.

2.2 Headteachers are expected to:

- work in partnership with employees to encourage flexible ways of working where appropriate;
- assess, monitor and review employees who are working flexibly and flexible working arrangements;
- follow the processes included in this document.

3. Scope

This document applies to all staff working in schools who are employed under a contract of employment with the school. It does not apply to staff employed directly by Powys County Council (such staff are subject to the Council's own Flexible Working Policy and Procedure), by an employment agency, staff whose contract of employment is held by another body i.e. is shared with another school; or staff engaged under a contract to provide services.

4. What is Flexible Working?

There are many different types of flexible working, some examples are:

- part-time working;
- home working – either on an occasional basis or on a more long-term basis;
- job sharing;
- term time working (can apply to support staff currently working 52 hours).

Some types of flexible working may not be possible for certain posts within schools.

5. Guiding Principles

It is important that both headteachers and employees are aware of the guiding principles behind this Flexible Working Policy.

5.1 *Effective service delivery is a priority* – any consideration given to, or request for, flexible work options will be evaluated on its potential impact on the work of the school.

5.2 *Flexibility is encouraged but it is not an entitlement* – flexible working arrangements are not an entitlement, nor are they intended to confer preferential treatment. Flexibility is a different way of working. Not all jobs are suited to all the flexible options. Headteachers will try to approve requests that are consistent with the needs of the school, and no request for flexible working will be dismissed without serious consideration. Reasons will be given if the request is declined. If the arrangement does not work for the school, it will not be approved.

5.3 *Equal access to a fair process* – individuals seeking a flexible work option will have to complete a standard request form. This will help to assess the proposed arrangement and how it might affect stakeholders and colleagues, as well as the individual's job. Headteachers will have to make an informed decision, and the aim of the process is to ensure that this is done fairly taking account of the circumstances. The same process is available to everyone, but it does not promise the same outcome for everyone (subject to Equalities legislation).

5.4 *Partnership* – individuals must work together with their headteacher to get the best from any proposed work option. Both will need to understand how it will affect the work of the school, and agree how the arrangement will be reviewed and monitored to ensure the option is working effectively. Any problems must be raised at the earliest stage, and the individual and headteacher must work together to resolve any problems.

6. Making an application

6.1 The following procedure must be followed when a request to work more flexibly is made. An application must:

- be in writing;

- explain what effect, if any, the employee thinks the proposed change would have on the workplace and how, in their opinion, any such effect might be dealt with;
 - specify the flexible working pattern applied for;
 - state the date on which it is proposed the change should become effective (if accepted implementation will usually take approximately 8 weeks);
 - state whether a previous application has been made to the employer and, if so when it was made (an employee is able to make one application per year);
 - be signed and dated.
- 6.2 To ensure that an employee includes the above compulsory information, the employee should complete a Flexible Working Request form (Appendix A).
- 6.3 It is suggested that employees seek advice and guidance from their relevant Professional Association or Trade Union representative.

7. Considering an application

- 7.1 The employee's application must be considered by their headteacher to establish whether the desired work pattern can be accommodated within the school. Advice should be sought from your HR Business Partner prior to any meeting, to ensure fairness and consistency.
- 7.2 Following an application to work flexibly, the headteacher will arrange a meeting to discuss the request with the employee. This meeting must be arranged within 28 calendar days after the date an application is received. If it is difficult to arrange a meeting within 28 calendar days the headteacher should seek the employee's agreement to extend the period and agree a date.
- 7.3 When considering a different working pattern both the headteacher and employee must be aware of the employee's rights under the Working Time Regulations (see Appendix F - the Guidance notes for Headteachers and Employees).
- 7.4 The employee has the right to bring a work colleague or Professional Association or Trade Union representative with them to the meeting, if they feel this will help them. Their role will be to support the employee; if required, to address the meeting and to confer with the employee, but they may not answer questions for the employee.
- 7.5 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 employee and headteacher should be prepared to be flexible. If the original request cannot be accommodated, then an alternative working arrangement may be discussed. Each case will be considered on an individual basis taking into consideration the job role and the type of flexible working request received.

- 7.6 The headteacher and employee may wish to agree that the new working pattern will take place for an agreed trial period in order to establish whether it is workable and whether there are any adverse effects on colleagues or the school.
- 7.7 All applications must be considered and a decision reached within 3 calendar months of the original date of application, including time for any appeal and its outcome, unless a longer period is agreed between the headteacher and employee.

8. Reaching a Decision

- 8.1 Before reaching a decision, the headteacher should discuss the application with the Staffing Committee. Once both parties have discussed the request, the headteacher must notify the employee of the decision in writing. Notification must take place within 14 calendar days following the date of the meeting.

8.2 *Accepting a request*

To ensure that an employee receives all the information when a request has been accepted, the headteacher should complete a Flexible Working Acceptance form (Appendix B) detailing the new working pattern, the date on which it will start, the duration of any trial period and date of review, ensuring the form is dated.

- 8.3 The headteacher should send a copy of the form to Employment Services so that changes are made to the employee's contract of employment, and a record is kept on the employee's file.
- 8.4 If the headteacher needs more time to consider the request, they must obtain the agreement of their employee for an extension to the 14 calendar days in which to inform them of the decision following the meeting. In these circumstances the proposal for an extension is likely to be in the employee's interests and the employee should be open to such requests.

8.5 *Declining a request*

Advice should be sought from your HR Business Partner prior to declining a request, to ensure fairness and consistency.

- 8.6 An application may only be refused where the headteacher has a clear business reason for doing so, which should be one or more of the following prescribed business reasons. The headteacher must not reject a request for any other reason.
- burden of additional costs;
 - detrimental effect on ability to meet customer demand;
 - inability to re-organise work among existing staff;
 - inability to recruit additional staff;
 - detrimental impact on quality;
 - detrimental impact on performance;
 - insufficiency of work during the periods the employee proposes to work;

- planned structural changes.

8.7 If the request is rejected, the notification must:

- state the business ground(s) for refusing the application;
- provide a sufficient explanation as to why the business ground(s) for refusal applies in the circumstances;
- provide details of the employee's right to appeal;
- be dated.

8.8 To ensure that an employee receives all the information when a request has been declined, the headteacher should complete a Flexible Working Decline form (Appendix C) and a copy kept on the employee's file.

9. Right of Appeal

9.1 There will be circumstances where the employee may believe that their request has not been properly considered and may want to appeal. Under this Flexible Working Policy an employee will have 14 calendar days to appeal in writing after the date of receiving written notification of the employer's decision.

9.2 When appealing against a refused request an employee will have to set out the grounds for making the appeal by completing the Flexible Working Appeal form, ensuring the form is dated (appendix D).

9.3 The appeal will be heard by the appropriate appeals committee of the governing body. The hearing must be arranged within 14 calendar days after receiving notification that the employee wishes to appeal. The employee can be accompanied by a work colleague or Professional Association or Trade Union representative.

9.4 The employee must be informed of the outcome of the appeal in writing (Appendix E) within 14 calendar days after the date of the meeting and a copy of the appeal will be held on the employee's personnel file.

9.5 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 and be dated.

9.6 If the appeal is dismissed, the written decision must state the ground for the decision, provide an explanation as to why the grounds for refusal apply in the circumstances and be dated.

9.7 A written notice of the appeal outcome constitutes the employer's final decision and is effectively the end of the formal procedure within the workplace.

10. Failure to Comply

Failure to comply with the above policy may result in an employee complaining to an Employment Tribunal. Further advice and information is available from your HR Business Partner.

11. Monitoring and Review

The Governing Body will monitor the outcomes and impact of this policy and procedure on an annual or bi-annual basis in conjunction with the recognized Trade Unions.

This procedure will be reviewed no later than 2 years' time by Human Resources in consultation with Trade Unions.

Appendix A

FLEXIBLE WORKING REQUEST

School:

Employee's Name: Employee No:

Date last applied under this right:

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided by law.

1. Describe your current working pattern (day/hours/times worked):

2. Describe the working pattern you would like to work in future (days/hours/times worked):

(you may continue on a separate sheet if necessary)

I would like this working pattern to commence from (insert date)

3. Impact of the new working pattern. I think this change in my working pattern will affect my employer, colleagues and the school as follows (please explain the affect):

Name (signature) Date

Note to headteacher: This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications seriously. You should arrange a meeting with your employee to discuss their request within 28 calendar days of receipt of this application. **Please confirm receipt of this application as soon as possible.**

Appendix B

FLEXIBLE WORKING ACCEPTANCE

School:

To (employee's name): Employee No:

Following receipt of your application and our meeting on I have considered your request for a new flexible working pattern.

- ☐ I am pleased to confirm that I am able to accommodate your application.
- ☐ I am unable to accommodate your original request. However, I am able to offer the alternative pattern which we have discussed and you agreed would be suitable to you.

Your new working pattern will be as follows:

Your new working arrangements will begin from

Optional

At the meeting we agreed that the new working pattern will take place for a trial period up to (insert date) to establish whether the new working pattern is suitable to yourself and your colleagues and the school. As agreed this will be reviewed on (insert date).

Note to the employee: Please note that when you have reached the end of your trial period and your new working pattern is agreed, this will become a permanent change to your terms and conditions of employment and you will have no right to revert to your previous working pattern.

Name (signature): Date:

Note to headteacher – please return this form to your employee and forward a copy to Employment Services.

Appendix C

FLEXIBLE WORKING DECLINE

School:

To (employee's name): Employee No:

Following receipt of your application and our meeting on I have considered your request for a new flexible working pattern.

Unfortunately we are unable to accommodate your request on the following business ground(s):

The grounds apply in these circumstances because:

Note to headteacher: you should explain why any other working pattern you may have discussed at the meeting is also inappropriate. Please continue on a blank sheet if necessary.

Name (signature): Date:

Note to headteacher – please return this form to your employee.

Appendix D

FLEXIBLE WORKING APPEAL

School:

Name: Employee No:

Note to employee: if your application has been refused, you may appeal against the decision. You can use this form to make your appeal. You should set out the grounds on which you are appealing, and do so within 14 calendar days of receiving written notice that your application for flexible working has been turned down.

I wish to appeal against my headteacher's decision to refuse my application for flexible working. I am appealing on the following grounds:

Name (signature): Date:

Please return this form to your headteacher within 14 calendar days of receiving written notice that your application for flexible working has been turned down

Appendix E

FLEXIBLE WORKING APPEAL REPLY

Dear (employee's name): Employee No:

Following our meeting on (insert date) I have considered your appeal against the decision to refuse your application for a flexible working pattern as follows:

Your new working arrangements will begin from (insert date).

Note to employee: please note that the change in your working pattern will be a permanent change to your terms and conditions of employment and you have no right to revert to your previous working pattern.

I am sorry but I must reject your appeal on the following ground(s):

The ground(s) apply because:

THIS DECISION IS FINAL AND THERE IS NO FURTHER RIGHT OF APPEAL.

Name (signature): Date:
Chair of Appeal Hearing

Appendix F

Flexible Working Policy Guidance Notes for Headteachers and Employees

The following guidance notes are to help both employees and headteachers in the process of finding appropriate working patterns to suit both parties. It will explain how to request an alternative work option and how to complete the relevant forms. It also gives helpful hints when considering alternative working options, preparing to meet with your headteacher or employee, accepting and declining a request and the appeal procedure, should the request be declined. Further advice is also available from Human Resources.

1. Making an Application - 'Flexible Working Request' form (Appendix A)

This form is used to make an application to request a different work option. Please note an employee may only make one request in any 12 month period unless specific circumstances apply.

2. Helpful hints for employees completing the request form

- It is important that you provide as much information as you can about your desired work option so that your headteacher can consider your request. It is important that all of the questions are complete or your headteacher may ask you to resubmit the application with all of the information.
- When completing sections 2 and 3, think about what effect changing your working pattern will have on your job. You should aim to show in your application that your plans will not harm your department's service and may in fact enhance it. It may mean that you are available to provide extra cover at peak hours, thereby improving the service.
- Take time to consider how your colleagues will manage if your work option changes. If you have any colleagues or friends who are already working flexibly, ask them about their experiences.
- Think about how any potential problems your plans may present to your headteacher could be overcome and ensure that you include these in your application.
- It is to your advantage to provide as much detail as possible about the pattern you would like to work.
- A new working pattern will normally be a permanent change unless otherwise agreed, so think carefully about the request as there is no right to revert to your former hours of work. You may wish to discuss a change in hours for a trial period. You may wish to consult with your Professional Association or Trade Union representative prior to submitting your request.
- If you request a flexible working pattern that results in you working fewer hours you should consider the impact this will have on your pay and pension.
- Once the request form is complete, forward it to your headteacher (keep a copy for your own records). They will then have 28 calendar days after the day the application is received in which to arrange a meeting with you to discuss your request.

- Remember, the more notice you provide, the more likely your headteacher will be able to implement the change when it suits you.
- Check who will consider your application if your headteacher is not available. It may be necessary to send it to their deputy.
- If you are due to go on maternity leave, think carefully about when to make your request. You might wish to mention to your headteacher before you take leave that you are interested in requesting an alternative work pattern. Bear in mind that you may need to attend meetings with your headteacher so that your request can be properly considered. If you would like the changes to start on your return from maternity leave, you should make your application in good time.

3. How long will it take before the request can be implemented?

Requests will be considered in the quickest possible time but a decision will be reached within a maximum of 3 months, including any appeal against a decision. However, a longer timescale can be adopted as long as this is agreed between the employee and headteacher. Employees must therefore ensure that they submit their application to their headteacher well in advance of the date they wish the request to take effect.

4. Preparing for the meeting

It will be useful for both headteachers and employees to familiarise themselves with this guidance before the meeting.

The **employee** should think about the following prior to the meeting:

- Be prepared to expand on any points within your application;
- Prepare to be flexible. Your headteacher may ask if there are any other working patterns you would be willing to consider or, if you would consider another start date or a trial period;
- You have a right to bring a companion with you. This may be one of your colleagues. If you are taking a companion along, ensure that they are fully briefed on your request before the meeting, provide them with a copy of your request form and inform your headteacher that a companion will be present.

The headteacher should consider the following prior to the meeting:

- Make a list or draft an agenda of the issues you would like to discuss at the meeting, e.g. if you are already aware that the request can be granted, you may wish to discuss a suitable start date before formally accepting the request;
- Inform your employee of anyone you have asked to join the meeting;
- Ask the rest of your staff if they would like to cover any extra hours that may be created as a result of granting the request;

5. Employee Rights under the Working Time Regulations

When considering a different working pattern both the headteacher and employee must be aware of an employee's rights under the Working Time Regulations. In brief, the following employee rights must be considered:

- An entitlement to a rest period of 11 uninterrupted hours between each working day;
- An entitlement to one whole day off a week;
- If an employee is required to work more than six hours at a stretch, they are entitled to a rest break of 20 minutes. The rest break should be taken during the six-hour period and not at the beginning or end of it. A headteacher must make sure that employees *can* take their rest, but are not required to make sure they *do* take their rest).

6. Accepting the request - 'Flexible Working Acceptance' form (Appendix B)

This form is completed by the employee's headteacher when accepting an application to a new work option. They must complete and forward this form to the employee within 14 calendar days following the meeting.

A copy of this form must be forwarded to Employment Services and held on the employee's personal file.

7. Declining the request - 'Flexible Working Decline' form (Appendix C)

This form is completed by the employee's headteacher when declining an application and should be returned within 14 calendar days following the meeting. Before completing this form, the headteacher must ensure that full consideration has been given to the application, and that any possible alternatives have been explored.

An application may only be refused where the headteacher has a clear business reason for doing so, which should be one or more of the following prescribed business reasons. The headteacher must not reject a request for any other reason.

- burden of additional costs;
- detrimental effect on ability to meet customer demand;
- inability to re-organise work among existing staff;
- inability to recruit additional staff;
- detrimental impact on quality;
- detrimental impact on performance;
- insufficiency of work during the periods the employee proposes to work;
- planned structural changes.

In addition to providing a specific business ground the headteacher must include an explanation about why the business ground applies in the circumstances. This should include the key facts that should be accurate and clearly relevant to the business ground.

Appealing - 'Flexible Working Appeal' form (Appendix D)

It will not always be possible for a headteacher to agree to a new work option in every circumstance due to the needs of the school. In such circumstances, the reasoning why the request cannot be accepted should be clear to the employee from the notice of refusal. But there will be circumstances where the employee may believe that their request has not been properly considered and may want to appeal.

An employee must make their appeal in writing using the appeal form within 14 calendar days after the date they receive written notice that their request has been declined.

There are no constraints on the grounds under which an employee can appeal. It may be that they wish to bring to attention something their headteacher may not have been aware of when they rejected their application, for example, that another member of staff is now willing to cover the hours the applicant no longer wishes to work. Or it may be to challenge a fact the headteacher has quoted to explain why the business reason applies.

The appeal will be heard by an appropriate appeals committee of the governing body. The hearing must be arranged within 14 calendar days after receiving notification that the employee wishes to appeal. The employee can be accompanied by a work colleague or Professional Association or Trade Union representative.

Following the appeal meeting, the employee will be informed of the outcome in writing within 14 calendar days after the date of the meeting, using the Appeal Reply form (Appendix E).

If the appeal is upheld the written decision will:

- include a description of the new working pattern;
- state the date from which the new working pattern is to take effect; and
- be dated.

If the appeal is dismissed, the written decision will:

- 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;
- be dated.