



**South East Cornwall Multi Academy Regional Trust**

# **Flexible Working Policy**

<b>Date</b>	<b>Changes</b>
3/9/17	Original draft circulated to LGCs and Trust Board
26/3/18	All SMART-Trust policies which unions requested further consultation on were removed from sites and previous policies reinstated to enable establishment of a JCNC and a fresh round of consultation
14/12/18	Updated draft circulated
13/03/19	Copy sent to senior staff, unions, LGC, legal and Trust Board inviting comments
15/05/19	Consultation with unions in JCNC meeting at Liskeard
17/06/19	Recommended by People Committee for approval by Trust Board
26/06/19	Version sent for final check prior to Trust Board
22/07/19	Approved by Trust Board
30/06/22	Consultation with unions in JCNC meeting at Liskeard following circulation to Trustees and governors
19/07/22	Approved by Trust Board

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## Introduction

The Flexible Working Regulations 2014 enable any employee with 26 weeks' continuous service to request to work flexibly. Although there is no statutory right for employees with less than 26 weeks' continuous service to request flexible working, where possible SMART Multi Academy Trust will consider requests from employees with less than the statutory requirement. Any such requests will be considered according to the same procedures.

The legislation does not provide an automatic right to flexible working. There is an emphasis on the importance of both the employee and the employer considering the terms of the request and attempting to reach an outcome that suits both parties. The employee has a responsibility to think carefully about their desired working pattern when making an application, and the Headteacher/Manager (or CEO in the case of requests from Headteachers) is required to follow a specific procedure to ensure requests are considered objectively.

## Permanent changes to terms and conditions

### Eligibility

1. To be eligible to make a statutory request under the legislation, a person must:
  - be an employee
  - have worked with the Trust continuously for 26 weeks at the date the application is made (only service with the current employer will count for continuous service purposes and not previous service with other local government bodies unless they were working in an academy that has recently joined the Trust)
  - not be an agency worker
  - not have made another application to work flexibly under the right during the past 12 months.
2. Eligible employees will be able to request:
  - a change to the hours they work;
  - a change to the times when they are required to work; or
  - a change to the place where they work

## The Procedure

### **Written application:**

3. An employee may make one application in writing a year to the Headteacher (or CEO as appropriate). An accepted application will mean a permanent change to the employee's terms and conditions of employment, unless otherwise agreed. The employee will have no right to revert back to a previous working pattern (unless otherwise agreed, for example by temporary variation to their contract). The Trust and the employee may wish to consider a specified trial period first.
4. The written application, preferably using the form at Annex A should:
  - state that it is a statutory flexible working request (if applicable);
  - include as much information as possible about the current and desired working pattern, including working days, hours and start and finish times;

- state the date from which the desired working pattern is proposed to start;
  - as far as possible, consider the effect the changes to the employee's working pattern might have on the work performed, that of colleagues and on service delivery. Without feeling it is necessary to provide a detailed impact assessment, any suggestions about dealing with any potentially negative effects, should be included in the written application;
  - include confirmation that the employee meets the eligibility criteria (for statutory requests);
  - state whether a previous formal request for flexible working has been made and, if so, when;
  - be submitted in good time and ideally at least two months before the proposed changes requested to take effect.
5. If the employee is making a request in relation to the Equality Act 2010, for example as a reasonable adjustment for a disability this should be stated in the request.
6. Headteachers may discuss and agree changes to the FTE of teachers within their school as part of their regular planning for forthcoming terms or academic years. In these cases, a mutually acceptable decision may be reached without making a formal request using this policy. However, headteachers must ensure discussions and outcomes are formally documented – see below.

### **Meeting with employee:**

7. It may be possible for a Headteacher (or CEO as appropriate) to agree to a request simply on the basis of the application itself. If so, the Headteacher (or CEO as appropriate) should write to the employee within 5 school days of the request specifying the contract variation agreed to and the start date. Where this is not possible, there is a set procedure to be followed:

Where necessary, the Headteacher (or CEO for Central Business Unit (CBU) staff) will arrange to meet the employee ideally within 10 school days (or as soon as is practicably possible) after receiving the written application. The employee will be kept informed if there is a delay in arranging this meeting. The Headteacher (or CEO as appropriate) may discuss the request with the appropriate line manager and make any necessary enquiries regarding the proposals prior to the meeting. Every effort will be made to accommodate reasonable requests for flexible working. The employee has the right to be accompanied at this meeting by a work colleague or trade union representative.

The meeting will be used to discuss the working arrangements requested. The employee will have the opportunity to explain how the arrangements will benefit them, as well as what impact the proposed working arrangements will have both on their own work and that of their colleagues and department. If the arrangements cannot be accommodated, there will be the opportunity at the meeting to explore possible alternative working arrangements.

Request from teaching staff to work from home for PPA will only be granted in exceptional circumstances in which the member of staff can demonstrate a clear benefit to children at the school.

## **Decision:**

8. Following the meeting, the Headteacher (or CEO as appropriate), will consider the request carefully and notify the employee of the decision in writing as soon as possible, but in any event within 5 school days.
9. If the request is accepted, or where an alternative to the arrangements requested has been discussed and agreed, the Headteacher (or CEO as appropriate) will confirm in writing details of the new working arrangements within 5 school days along with details of any trial period, an explanation of changes to the contract of employment and the date on which they will commence. The employee will be asked to sign and return a copy of the letter. This will be placed on the employee's personnel file to confirm whether the variation to the terms of employment is permanent or temporary. There may also be some additional practical matters, such as arrangements for handing over work, that the line manager will discuss with the employee.
10. Unless otherwise agreed (and subject to any agreed trial period) changes to terms of employment will be permanent. The employee will not be able to make another formal request until 12 months after the date of the most recent request.
11. If the Headteacher (CEO as appropriate) needs more time to make a decision, this will be discussed with the employee. For example, more time may be needed to investigate how the request can be accommodated or to consult several members of staff.
12. If the request is unsuccessful the Headteacher (CEO as appropriate) will write to the employee within 5 school days of the decision with details of the operational reasons for refusal, provide sufficient explanation as to why they apply in these circumstances and provide information about the employee's right to appeal.

## **Grounds for refusal**

13. In accordance with the legislation, the grounds for turning down an application are that the proposed changes will have one or more of the following consequences:
  - the burden of additional costs;
  - inability to re-organise work among existing staff or recruit additional staff;
  - detrimental impact on quality or performance;
  - insufficient work during the periods the employee proposes to work;
  - any planned structural changes that are under consultation.

## **Appeals**

14. The employee may appeal against the decision if the request is rejected, or an alternative arrangement from the one requested is offered. For example, this may be on the grounds that new information is now available that was not available to be considered or if the employee feels the request was not handled reasonably in line with this policy.
15. The appeal must:
  - be in writing to the Clerk to the Local Governing Committee and dated;

- set out the grounds for the appeal; and
  - be sent to the Clerk to the Local Governing Committee within 10 school days of the date on which the employee received the written refusal of the request.
16. In certain circumstances, a request made under the formal procedure will be treated as withdrawn. This will occur if:
- the employee fails to attend two meetings under the formal procedure without reasonable cause; or
  - the employee unreasonably refuses to provide information the employer requires to consider the request.
  - In such circumstances, the Headteacher (or CEO as appropriate) will write to the employee confirming that the request has been treated as withdrawn.
17. The Clerk to the Local Governing Committee will arrange for a meeting to take place as soon as possible following receipt of the appeal. The meeting will be held at a convenient time for all those attending and, as at the meeting that considered the original request, the employee may be accompanied by a work colleague or trade union representative.
18. The Clerk to the Local Governing Committee will arrange an Appeal Panel of three governors which will be conducted according to the procedure detailed in the Trust's Grievance Policy.
19. The employee will be informed in writing of the Appeal Panel's decision as soon as possible following the appeal meeting and certainly within 5 school days.
20. If the appeal is upheld, the employee will be advised in writing of the new working arrangements within 5 school days with details of any trial period, an explanation of changes to the contract of employment and the date on which those changes will commence.
21. The employee will be asked to sign and return a copy of the letter. This will be placed on the employee's personnel file to confirm the variation to the terms of employment. There may also be some additional practical matters, such as arrangements for handing over work, that the line manager will discuss with the employee.
22. The employee should be aware that changes to their terms of employment will be permanent unless a temporary variation is agreed; and they will not be able to make another formal request until 12 months after the date of the original application.
23. If the appeal is rejected, the written decision will give the business reason(s) for the decision and explain why the reason(s) apply in this particular case. The decision will be issued to the employee in writing within 5 school days of the appeal meeting. The employee will not be able to make another formal request until 12 months after the date of the original application.

## Time Limits

24. The law requires that requests for flexible working must be considered and decided upon within a period of three months from first receipt to notification of the decision on appeal. As a guide and to help ensure that requests are dealt with within this timescale:
- a meeting will normally be held with the employee within 5 school days of the request being received;
  - the employee will normally be informed in writing of the decision within 5 school days of the meeting; and
  - any appeal by the employee must be lodged within 10 school days of receipt of the written decision
  - where an appeal is lodged, an appeal meeting will normally take place within 10 school days of receipt of the appeal
  - the appeal hearing will be held within 10 school days of receipt of the written appeal
  - the outcome will be notified to the employee in writing within 5 school days of the meeting.
25. However, there will be exceptional occasions when it is not possible to complete the procedure within these time limits. Where an extension of time is agreed with the employee, the Headteacher (or CEO as appropriate) will write to confirm the extension and the date on which it will end.

If the employee withdraws a formal request for flexible working, they will not be eligible to make another formal request for 12 months from the date of the original request.

## Right to be accompanied

26. The employee has the right to be accompanied at the initial meeting and the appeal by a work colleague or trade union representative. The companion has the right to address the meeting and to confer with the employee during the hearing but not to answer questions on behalf of the employee.
27. If the employee's chosen work colleague or union representative is not available at the time proposed for the meeting, then the meeting must be postponed and re-arranged at a time convenient to both parties and within 5 school days of the initially proposed meeting.
28. The work colleague is entitled to time off during working hours for the purpose of accompanying the member of staff and a union official is entitled to reasonable paid time off.

## Further information:

Further information on flexible working can be found at: <https://www.gov.uk/flexible-working/overview>

## Temporary requests for flexibility

### Eligibility

29. All staff are eligible to make requests for temporary flexibility arrangements to their Headteacher (or CEO as appropriate). Employees are able to request any change which has no associated cost to the Trust or known negative impact on the operation of the school. Examples include:
- Arranging cover of duties to enable a temporary change in the hours worked in any given week
  - Flexing PPA time to a different time in the week to allow a late start, early finish or extended break
  - Working at a different location for a specific purpose.

### The Procedure

#### **Written application:**

30. Employees may make a written application for consideration by the Headteacher (or CEO as appropriate). This application should include the proposed location, date and time of the scheduled hours and the proposed changed date and time.
31. If the change is requested as a regular change, for example a request to work later each Tuesday in order to leave early on a day in which PPA is at the end of the day for childcare reasons, then such requests can be made in one application rather than separate applications each week. However, these types of request must be reviewed termly to ensure the arrangement keeps pace with the changing needs of the school timetable.
32. Written applications must be made to the Headteacher, (or CEO as appropriate) who will make a decision. The employee will normally be informed of a decision not more than 10 school days after the written request was received. Employees are advised to provide as much notice as possible for the request to allow for the changing needs of the school timetable.

#### **Decision:**

33. The decision is at the discretion of the Headteacher (or CEO as appropriate). It is a non-statutory addition provision offered by the Trust which therefore has no formal right to appeal or representation. The reasons for the request being refused will normally be concerned with required staffing levels, parental or pupil contact requests.
34. Please see the 'Leave of Absence Policy' as employees may be eligible to request unpaid leave if the request under the terms of Flexible Working is not agreed.

The policy will treat all records as confidential.



## FLEXIBLE WORKING REQUEST FORM

### DATA PROTECTION

All information which you provide on this form will be treated as strictly confidential when used for the assessment of criteria for the provision of flexible working arrangements. However, the Academy does have a legal duty to protect the funds which it handles and it may use the information provided on this form for the prevention or detection of crime (e.g. fraud). The information may also be disclosed to other organisations which handle public funds and law enforcement agencies for the prevention or detection of crime, the apprehension or prosecution of offenders, or the assessment or collection of any tax or similar duty.

### 1. Personal details

Name  
number

Staff or payroll

Head

NI No

Telephone

To the Headteacher

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided in law. I confirm I meet the eligibility criteria as follows:

**1. General**

I have worked continuously as an employee of SMART for the last 26 weeks

I have not made a request to work flexibly under this right during the past 12 months

If you are unable to tick all the boxes then you do not qualify to make a request to work flexibly in law. However, this does not mean that your request may not be considered.

**2. Reason for the request**

3a. Describe your current working pattern (days/hours/times worked):

3b. Describe the working pattern you would like to work in future (days/hours/times worked): please continue on a separate sheet if necessary.

3c. I would like this working pattern to commence from:    Date:

**4. Impact of the new working pattern.**

I think this change in my working pattern will affect my employer and colleagues as follows:

5. Accommodating the new working pattern

I think the effect on my employer and colleagues can be dealt with as follows:

I have read the flexible working policy and accept that if my request is successful this will result in a permanent change to my terms and conditions of employment. I also accept I have no right in law to revert back to my previous working pattern or terms and conditions, although I may request to do so.

Name:

**NOW PASS THIS APPLICATION TO YOUR HEADTEACHER / LINE MANAGER**

DATE

**Private & Confidential**

NAME

Dear NAME

**FLEXIBLE WORKING REQUEST**

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

I am pleased to confirm we are able to accommodate your application.

OR

I am unable to accommodate your original request. However, I am able to accommodate the alternative pattern we discussed.

Your new working pattern will begin from DATE.

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 in law to revert back to your previous working pattern or terms and conditions. You will receive written confirmation of your new terms and conditions of employment in due course.

Yours sincerely

Name

Job Title

DATE

**Private & Confidential**

NAME

Dear NAME

**FLEXIBLE WORKING REQUEST**

Thank you for your recent application in which you requested to change your working pattern. Following our meeting to discuss this request and other potentially suitable alternative working patterns, held on DATE, I have considered your request and have decided I am unable to accommodate it.

I am refusing your request on the following business grounds: GIVE DETAILS

These grounds apply in your case because: GIVE DETAILS

You may appeal against this decision in writing within 10 school days of receipt. I will then arrange for the Appeals Panel of the Governors to hear your appeal. In your appeal you should set out your grounds of appeal and sign and date it.

I am sorry that we have been unable to identify a suitable working pattern that meets both your requirements and those of the school.

Yours sincerely

Name

Job Title