

MODEL PROCEDURE FOR THE RIGHT TO REQUEST FLEXIBLE WORKING FOR TEACHERS AND SUPPORT STAFF IN SCHOOLS

October 2014



School's Human Resources

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The Right to Request Flexible Working

1. Policy

1.1 Introduction

Flexible working is a label for a wide range of working practices, including part-time, flexi-time, compressed hours, and working from home. Flexible working is essentially an agreement between an employer and employee for the employee to work in a way that best fits their other responsibilities whilst also ensuring that the job gets done. It has tangible benefits for both the individual and employer.

For schools, holding onto experienced and skilled staff is important in maintaining quality and containing costs. Offering flexible working can help retain staff and widen the talent pool, so employers are able to recruit people with more skills; it can also increase commitment and loyalty of staff members which can translate into improved productivity.

For employees, flexible working allows them to better balance their work life with their family responsibilities or other commitments. In today's society, both men and women want to find a balance between work, family and caring responsibilities.

2. Legislation

2.1 The Background

The right to request flexible working was first introduced in April 2003 for employed parents of children under 5 or under 18 if the child is disabled, giving employees the ability to request a change to their working pattern. The right to request flexible working was extended to carers of some adults in April 2007 and in April 2009 for parents of children under 17.

The legislation provides eligible employees with the right to request a change in their contractual working pattern from their employer and places a statutory duty on the employer to seriously consider it and only reject it where there is a clear business reason. Employers are able to reject flexible working requests on a number of specified business grounds.

To qualify individuals had to be employed with the same employer for more than 26 weeks before a request can be made; have or expect to have caring responsibilities for a qualifying child or adult; and can only make one request in any 12 month period.

2.2 Recent Developments

Recent developments to the Children and Families Act 2014 include the following:

- Extension of the right to request flexible working to all employees
- Replace the current statutory procedure, through which employers consider flexible working requests, with a duty on employers to deal with requests in a reasonable manner, and within a '*reasonable*' period of time;
- Provide guidance to employers on how to prioritise conflicting requests when received at the same time within the current framework for the right to request flexible working;
- Retain the 26 weeks qualifying period of continuous employment

3. Procedure

3.1 Scope

Please note that Governing Bodies who choose not to adopt this model policy must still apply the right to request flexible working to those employees who are covered by legislation.

Under this policy all school based staff (support staff and teachers) will have the right to request flexible working regardless of length of service or whether or not they have caring responsibilities.

This procedure is not designed to address short-term domestic situations/emergencies where a more immediate response is required.

If a request is rejected or an application withdrawn a further statutory request cannot be made for 12 months from that date, with the following exceptions: -

- There is no limit on the number of requests that may be made by a disabled person, where the request is a reasonable adjustment under the Equality Act 2010.
- In exceptional cases, where an employee has had a significant change in their personal circumstances, the ability to submit an additional (non-statutory) request will be at the discretion of their headteacher / manager, this will be dealt with in the same way as other requests.
- In cases where changes have been made to an employee's working arrangements (not at the employees request) within that 12 month period an additional (non-statutory) request will be permitted.

3.2 Principles

- This procedure gives all employees the right to request to work flexibly but recognises that the prime objective of the Council / School is the effective delivery of services and that any arrangements should be applied in this context
- All requests for flexible working are to be given due consideration under a single formal process, whether made under the auspices of legal regulations or council / school policy
- In all instances managers will only be able to refuse a request having been through the procedure and provided a written explanation as to why the working pattern required is not feasible.

3.3 What can be requested?

The employee can request changes to;

- The number of hours he or she is required to work
- The times he or she is required to work
- Where he or she is required to work – at home or the workplace

The above covers working patterns such as annualised hours, compressed hours, flexitime, home working, job-sharing, self-rostering, shift working, staggered hours and term time working.

Employers have a duty to consider requests seriously and will be able to refuse only if there is a clear business reason (valid reasons are specified in the section “Refusing a Request”).

3.4 Responsibilities

	Responsibilities
Employees	<ul style="list-style-type: none"> • To consider the implications of requesting flexible working arrangements for themselves, their colleagues and the school • To consider how potential negative effects can be overcome • Consider how flexible they can be with their request, is there a compromise that could help protect the school?
Managers/headteacher and Governors	<ul style="list-style-type: none"> • To ensure that employees are aware of flexible working opportunities

	<ul style="list-style-type: none"> • To consider requests for flexible working reasonably and to own the decision • To ensure the needs of the school are protected • To look for opportunities for the school to benefit from individuals working more flexibly • To provide feedback and justification when they are unable to accommodate a request for flexible working
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3.4 Stages of the process

3.4.1 The Application

- An application will need to be made on the Flexible Working Application Form (FA1) (See Appendix One)

An application will be taken as having been made on the day that it is received.

Where an application is made by e-mail or fax, it is taken to be received on the day it was transmitted.

Where an application is sent by post, it is taken as being received on the day it would have been delivered in the ordinary course of the post.

The same principles apply to the giving of notices by the employee and employer throughout the process.

- The headteacher / manager should discuss the request with the individual prior to submitting it to the Personnel Committee of the Governing Body for a response.
- The Personnel Committee of the Governing Body will consider the response carefully.

3.4.2 Timescales

Within **28 days** of the initial receipt of the application for Flexible working the Personnel Committee of the Governing Body must have either:

- Accepted the application and notified the employee in writing
- OR**
- Arranged a meeting with him/her to discuss the application and how it might be accommodated and/or consider other options
- AND**
- Confirm in writing the outcome within 14 days of the meeting

- If contractual changes are agreed, contact the HR Provider complete any relevant documentation.

Appendix Two contains a flow chart explaining the process and timescales. Appendices Three, Four, Five and Six include sample letters.

All requests will be handled promptly and will be completed within a period of 3 months (including any appeals) from first receipt.

3.4.3 Right to be accompanied

The employee is entitled to be accompanied at the meeting with the Personnel Committee of the Governing Body and at the appeal by a trade union representative or another employee of Sheffield City Council.

3.4.4 Extension of Time Limits

There may be occasions when the time limits outlined above are too short and an extension may be required – for example, to allow more time to explore an alternative working pattern. Where the employer and employee agree, time limits can be extended. A written record must be made of this agreement and the length of the extension and sent to the employee.

3.4.5 Deciding on a request

The Personnel Committee will consider the request looking at the benefits of the requested changes in working conditions for the employee and the organisation and weighing these against any adverse business impact of implementing the changes, including costs and potential logistical implications.

The 3 potential outcomes are

1. Accept the request and establish a start date and any other action
2. Confirm a compromise agreed at the discussion, such as a temporary agreement to work flexibly or trial period
3. Reject the request, setting out clear business reasons, how these apply to the application and the appeal process

3.4.6 Acceptance of an Application

An application may be made for a permanent or temporary change to the employee's contract of employment.

Where a permanent variation in the employee's hours, time or place of work is agreed, there will be no right for the employee to revert back to the former agreement.

Where a temporary arrangement is agreed, this will include a date to review the arrangement. There will be no obligation on either side for the arrangement to continue after the review date.

When a request is accepted, this will be confirmed in writing with details of the new working pattern and the date it comes into effect (See Appendix Three for sample letter).

3.4.7 Refusing a request

Refusal of an application for flexible working will only be based on one or more of the following grounds, as outlined in the legislation:

- The burden of additional costs is unacceptable to the organisation
- The employer considers the change would have a detrimental effect on the organisations ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- The employer considers the change will have a detrimental impact on quality
- Detrimental impact on performance (of the individual/team/organisation)
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes (e.g. where the employer intends to reorganise or change the business and considers the flexible working changes may not fit with these plans)

The Governing Body must write to the employee within 14 days of the application being rejected, stating the following:

- The specific reason(s) for refusal
- An explanation as to why the business reason applies in the circumstances.
- The individual's right of appeal (to the Appeals Committee of the Governing Body).

3.4.8 Withdrawal of an application

An application will be treated as withdrawn where the employee:

- Notifies the employer verbally or in writing that they are withdrawing their application.
- Misses more than one meeting arranged under the process without reasonable cause. (if an employee does not attend a meeting and a subsequent rearranged one without a reason, legally the application can be deemed withdrawn however the employer should find out the reasons for the employee failing to attend both meetings before reaching any decision to close their application)
- Unreasonably fails to provide information the headteacher / manager requires in order to agree to a variation in contract.

In these circumstances the headteacher / manager should write to the employee to confirm that the application has been withdrawn.

Where an application is deemed to have been withdrawn, the employee will not be able to make a further application for 12 months from the date the withdrawn application was made.

3.4.9 Handling multiple flexible working requests

There may be occasions where the school receives more than one request to work flexibly from different employees. Where this is possible it may not be possible to grant all of the requests received. Governors will consider each request on its own merits.

Governors may have a discussion with the employees to see if there is any room for adjustment or compromise. Governors will take into account any offers from existing flexible working employees to change their flexible working practices to help accommodate new flexible working requests, however this does not guarantee that a new request can be approved.

3.4.10 Appeal Process

An employee has 14 days from the date of written notification by the Personnel Committee of the Governing Body that a request has been refused, in which to appeal.

To register an appeal the employee needs to write to the Headteacher or Chair of Governors as appropriate within 14 working days of the initial decision and must specify reasons for the appeal. Appeals should normally be restricted to

- The reasonableness of the decision
- Any relevant new evidence
- Procedural irregularities

Once a written appeal has been received, an appeal hearing should be called within 10 days. This will be considered by the Appeals Committee of the Governing Body. Employees have the right to be accompanied.

The Governor/s will seek to hear the appeal within 10 working days. The appeal can be heard by a governor designated to hear the grievance or by a governor appeal panel of up to 3 governors. The employee and the manager/Headteacher will have the opportunity to present the information and ask questions.

Following an adjournment to give full consideration to the facts presented, the Governor/s will reconvene the meeting to give the decision which will be confirmed in writing within 3 working days.

The Governor/s decision will be the final stage of this procedure, however this does not remove an employee's right to make an external challenge.

In attendance:

- The employee and their representative

- The headteacher or manager
- Governor/ governor appeal panel
- Human Resources support
- To ensure a fair process the sub-committees/panel must be made up of different governors who have had no prior involvement in the process, it is recommended these are not school employees.

Process:

- The Manager/Headteacher/Governors will give 10 working days notice of the appeal meeting
- The Manager/Headteacher/Governors will invite the employee in writing
- The employee will have the opportunity to challenge facts or evidence and can submit their own facts or evidence for consideration.
- Any new evidence should be submitted 5 days before the appeal meeting

Potential Outcomes

- Confirmation that the original decision is upheld
- Confirmation that the Appeal is upheld

The employee must be informed of the outcome of the appeal in writing.

If the request is accepted by the Appeals Committee, this will be confirmed in writing with details of the new working pattern and the date it comes into effect.

If the request is refused, the Appeals Committee must confirm:

- The specific reason(s) for refusal
- An explanation as to why the business reason applies in the circumstances.

APPENDIX ONE
Flexible Working Application Form FA1

Note to the employee

This form will help your headteacher / manager to consider your request if you provide as much information as you can about your desired working pattern. The Personnel Committee of the Governing Body will then have 28 days after the day your application is received in which to arrange a meeting with you to discuss your request. In the meantime, your headteacher / manager should discuss this request with you. You can use this form to request a temporary or permanent change to your contract.

Please hand your form to your headteacher / manager well in advance of the date you wish the request to take effect.

Note to the headteacher / manager receiving this application

This is a formal application made under the Flexible Working Procedure. The Personnel Committee of the Governing Body has 28 days after the day you received this application in which to either agree to the request or arrange a meeting with the employee to discuss their request. Before submitting the request to the Personnel Committee, you should discuss the request with the employee. **You should confirm receipt of this application using the attached confirmation slip.**

Please refer to the Model Procedure for the Right to Request Flexible Working – A copy of this is available on the CWLB.

1. Personal Details

Name:

School:

Manager:

Date:

Reason for Request (Please tick **one** option)

I am a parent/have parental responsibility for a child under 17 (under 18 if disabled)

I have carer responsibilities for another adult

I am requesting this reasonable adjustment because of my disability

I wish to adopt a better work life balance.

Other (please provide details)

This is a statutory request, if you have made a previous application for flexible working please provide details and date of last request.

Please note, if you have a flexible working request approved you do not have a statutory right to request other flexible working variation to contractual terms for a period of 12 months.

To:
(Headteacher / Manager's Name)

I would like to apply to work a flexible working pattern that is different from my current working pattern

For all boxes you may continue on a separate sheet if necessary	
2a	Describe your current working pattern (days/hours/times worked):
2b	Describe the working pattern you would like to work in future (days/hours/times worked/location):
2c	I would like this working pattern to commence from: Date:

3. Impact of the new working pattern

I think this change in my working pattern will affect my employer and colleagues as follows: (Please list any benefits for the service)

4. Accommodating the new working pattern

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

Signature		
Print Name:		Date:

NOW PASS THIS APPLICATION TO YOUR HEADTEACHER / MANAGER

To the Headteacher / Manager

Please cut this slip off and return it to your employee in order to confirm your receipt of their application – ensure that you keep a copy for your records

Flexible Working Application Receipt (to be completed and returned to employee)

Dear:

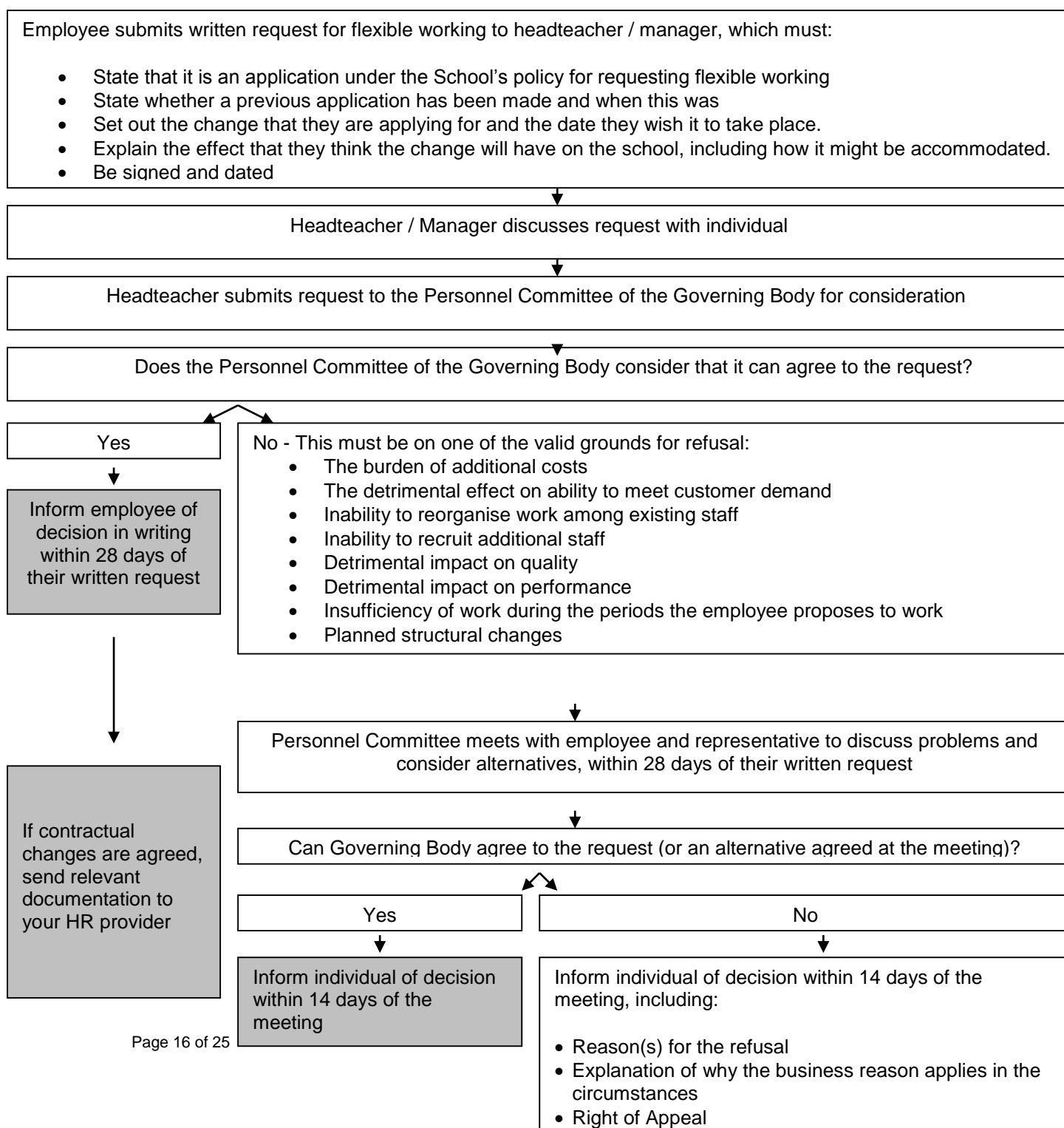
Thank you for your request to change your work pattern which I received on:

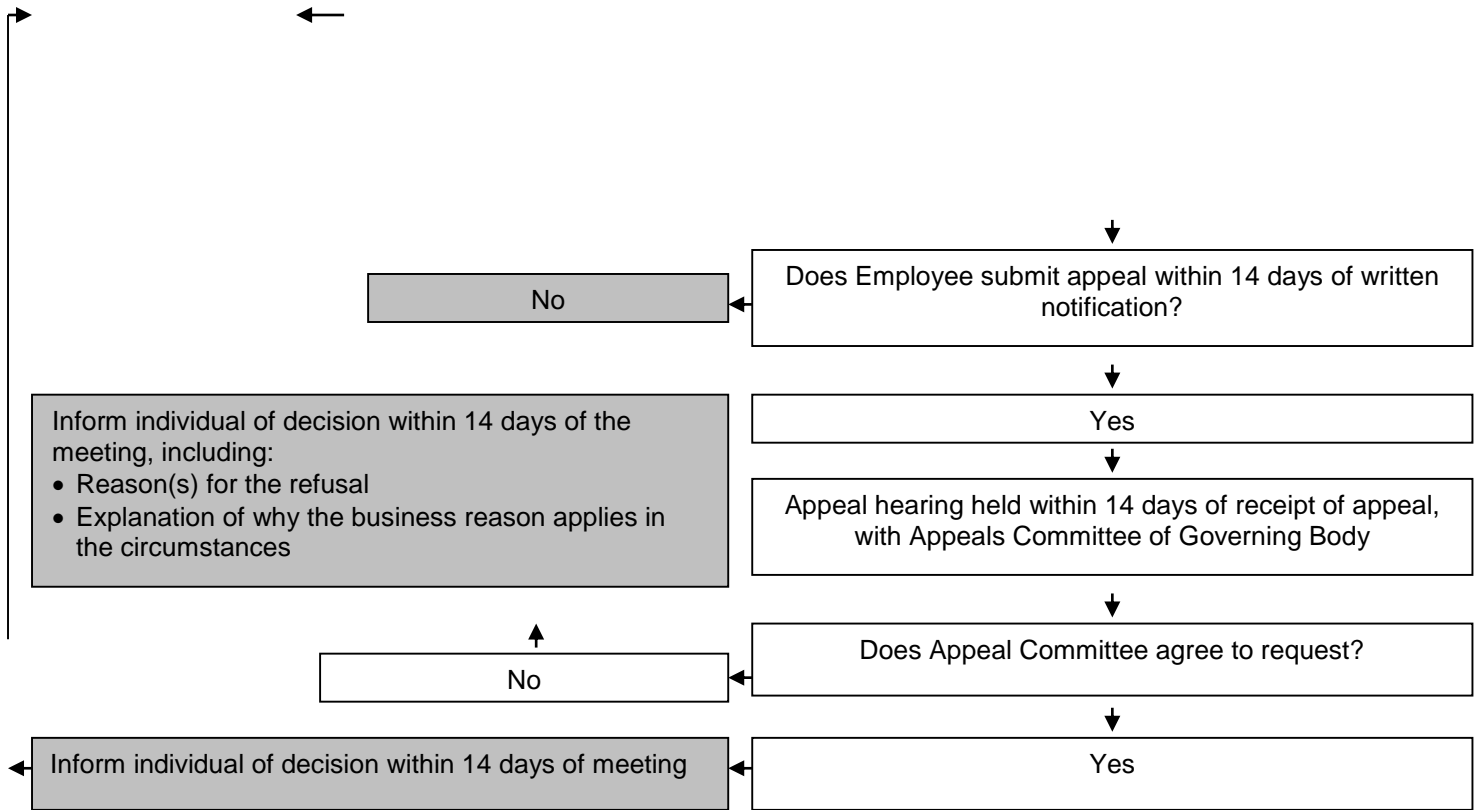
The Personnel Committee of the Governing Body shall be arranging a meeting to discuss your application within 28 days of this date. In the meantime, I will discuss the request with you. You should consider whether you would like a Trade Union Representative or a fellow colleague to accompany you at the meeting with the Personnel Committee of the Governing Body.

Signed.

Date

APPENDIX TWO Flexible Working Request Flowchart





APPENDIX THREE
Model letter

Agreement to request for flexible working or agreed alternative

Date

Dear

Request for Flexible Working

Following receipt of your application and our meeting on (date).....
The Personnel Committee of the Governing Body has considered your request for a
new working pattern.

#I am pleased to confirm that the School is able to accommodate your request.

OR (delete as appropriate)

#The School is unable to accommodate your original request. However, I am able to offer an alternative, which we have discussed, and which you have agreed will be suitable to you.

Your new working pattern will be:

The new arrangements will begin from (date).....

Please note that the change in your working pattern is a permanent #/temporary# change to your terms and conditions of employment. Your other terms and conditions of employment remain unchanged.

Yours sincerely

Name
Chair, Personnel Committee of Governing Body

Cc Headteacher
Trade Union Representative
Human Resources

APPENDIX FOUR
Model letter

Refusal of request

Date

Dear

Request for Flexible Working

Following receipt of your application and our meeting on (date).....

The Personnel Committee of the Governing Body has considered your request for a new working pattern.

I am sorry but the School is unable to accommodate your request for the following business reasons(s).

The reasons apply in the current circumstances because:

If you are unhappy with this decision you may appeal against it. Please make your appeal in writing to

.....,

within 14 days of receiving this letter, clearly setting out the reasons for your appeal.

Yours sincerely

Name
Chair, Personnel Committee of Governing Body

Cc Headteacher
Trade Union Representative
Human Resources

APPENDIX FIVE

Model letter

Confirmation of withdrawal of request for flexible working

Date

Dear

Request for Flexible Working

I confirm that I have received notice that you wish to withdraw your application for flexible working which you submitted to me on: (date)

Under the right to reply, you will not be eligible to submit another application within twelve months after the above date.

Yours sincerely

Name

Headteacher / Chair of Personnel Committee of Governing Body (delete as appropriate)

Cc Headteacher / Chair of Governors (delete as appropriate)
TU Representative
Human Resources

**APPENDIX 6 Appeal outcome letter
Request for flexible working or agreed alternative**

Date

Dear

Request for Flexible Working – Appeal Hearing

Following receipt of your application and our appeal hearing on
(date).....

The Appeals Committee of the Governing Body has considered your request
for a new working pattern.

#I am pleased to confirm that the School is able to accommodate your
request.

OR (delete as appropriate)

#The School is unable to accommodate your request.

#However, I am able to offer an alternative, which we have discussed, and
which you have agreed will be suitable to you.

Your new working pattern will be:

The new arrangements will begin from
(date).....

Please note that the change in your working pattern is a permanent
#/temporary# change to your terms and conditions of employment. Your
other terms and conditions of employment remain unchanged.

Yours sincerely

Name
Chair, Appeals Committee of Governing Body

Cc Headteacher
Trade Union Representative
Human Resources

APPENDIX 7 Headteacher/Managers guidance

Sheffield City Council/Schools have long recognised that a healthy balance between work and the rest of our lives is important for all of us. But equally importantly, flexible working patterns and arrangements can support developments and improvements in schools, and help in recruiting and retaining a talented and effective workforce.

Headteachers /Managers play an important role in developing flexible solutions for their staff and it is important that you feel confident to discuss new and flexible working practices with your staff and respond appropriately to questions and requests.

Help and Advice for Headteachers / Managers:

Your Human Resources Provider will be able to advise, guide and support you when looking at flexible working options. They will be able to discuss in detail the current range of options available to you.

Flexible Working Practices: The Business Case:

A Talented and Effective Workforce

Increasingly, people are choosing to work for organisations that proactively support them to achieve a healthy work-life balance. Recently, the Equalities Commission reported that access to flexible working is a key factor in an organisations ability to recruit and support a diverse workforce. Introducing and offering flexible working options will help the Organisation to recruit and retain a talented and effective workforce that reflects the community it serves.

What do I need to do ?

An employee may make **an individual request** for a different pattern of work or a different number of hours by using the Flexible Working procedure.

The Organisation wants to encourage positive discussions around new and flexible ways of working. Employees should be encouraged to make suggestions to change working practices and are also expected to give some consideration to the way in which the changes could be made to work in a way that supports or improves their work, the work of the team and the school as a whole.

When considering new working arrangements for individuals ,it is essential to ensure that the new arrangements are:

- Cost effective, efficient and support or improve the service in the school.
- Lawful: complies with employment law including health and safety and equalities legislation.

- Fair: do not discriminate against or disadvantage an individual or group.

Points to consider

Complying with the law

Employees with a legal right to request flexible working

Some groups of staff have a legal right to make a request for a different pattern of work or a different number of hours and have it properly considered. The school's policy on Flexible Working covers your duties and responsibilities to these employees.

Working Time Regulations

You must ensure that the requirements of the Working Time Regulations are not contravened. The Working Time Regulations are updated from time to time and your HR Provider will provide advice.

Health and Safety

When looking at alternative patterns of working there can be potential health and safety implications. It is therefore essential to conduct or revisit an original risk assessment. If someone is working on their own, this can have wider implications than just security, for example there may be manual handling issues. The Occupational Health and Safety Service (where applicable) is able to advise on risk assessments and health factors relating to work life balance or stress.

Discrimination

Care should be taken to ensure that new working practices do not discriminate against or disadvantage a specific group or individual. For example: a new rota system which did not incorporate some element of choice in hours or shifts may unlawfully discriminate against those who have care responsibilities.

Terms, Conditions and Benefits

A change in the number of hours worked, a pattern of work or working arrangements, may impact on an individual's terms and conditions of service, for example, annual leave or sickness entitlements. Advice on terms and conditions of service can be provided by your HR Provider.

Changes to working hours may also affect benefit entitlements. For example, reducing working hours in the period before retirement may affect the pension an individual receives. A working parent who reduces their hours may not be entitled to the same amount of Working Family Tax Credit. .

Management and Resources.

New patterns of work may have implications for your management arrangements, for example, meetings, training days . You may need to seek advise from your HR Provider

Employees working from home, or working between school sites may need to be supported with IT resources.

The school document centre provides useful information and guidance on CWLB.

Managing performance

Headteachers/Managers are often nervous about new working arrangements when their traditional structure for managing staff is changed.

It is good management practice to focus on the quality of work produced and the ability to meet targets and deadlines.

The Performance Management policy is a useful guide to assist you in managing performance issues.

Commitment and Trust

Commitment and trust are integral to the implementation of new working patterns and work both ways between employer and employee. Trust can be built by working in partnership to identify and solve problems jointly.

It is important to be seen to consider ideas seriously – recognising that every idea, including those that are not traditionally popular for management, needs to be examined. .