

SOLIHULL METROPOLITAN BOROUGH COUNCIL

Flexible Working Policy

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

SMBC can provide information in a range of different ways, for example via the use of large print, audio, summarising large documents, interpretation, translation and British Sign Language interpreting services.

If you require this information in an alternative format or need assistance because English is not your first language, please contact your nominated Human Resources Advisor in the first instance for further support.

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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Document revision dates

Version	Date	Reason
6.2	1 February 2022	Updated to reflect Smarter Ways of Working and the new hybrid working guidelines. New right to request flexible working from day one of employment. Toolkit also updated.
6.3	November 2023	Updated to reflect impending legislative changes under the Employment Relations (Flexible Working Act) 2023. Employees can make 2 flexible working requests a year and decisions must be made within 2 months.

CONTENTS

	Page
1. Introduction	3
2. Scope of Policy	4
3. Purpose	4
4. Roles and Responsibilities	4
5. Procedure	6

Guidance Documents available in a separate toolkit document

1. Types and Benefits of Flexible Working Arrangements
2. The Right to Request Flexible Working Application Form
3. Frequently asked questions
4. Agenda for flexible working meeting
5. Attitudes to flexible working
6. Business reasons to consider in a request to work flexibly

1.INTRODUCTION

The Council is committed to hybrid working as this will enable a flexible, 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 the people we support.

Flexible working is about the hours and days we work and any more specific work patterns that 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.

All employees will have the right to request flexible working from day one of their employment and to have their request considered seriously by their employer.

There is a Flexible Working Toolkit guidance document available on the [Intranet/School Extranet](#) which must be read in conjunction with the application of this policy and procedure. This document provides 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 has Hybrid Working guidelines 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. Hybrid working is the term used by the Council to describe how services can be delivered by employees working in different locations, either workplaces, out in the community or at home. This is different from flexible working which is about an individual's work pattern rather than a service wide arrangement.

Examples of flexible working include:

- reducing the number of hours that you are working;
- changing your start and finish times;
- compressing your working hours into fewer days (for example moving to a nine-day fortnight);
- working term-time hours or;
- moving to hybrid working which allows you to split your time between attending the workplace and working remotely [see below for more on our approach to hybrid working];

The change could be for:

- all working days
- specific days or shifts only
- specific weeks only, for example during school term time
- a limited time, for example for 6 months only

More details of different work patterns can be found in the [Flexible Working Toolkit](#).

2. 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, Headteacher or senior member of staff.*

3. 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.

4. ROLES AND RESPONSIBILITIES

Manager/ Headteacher

- Consider requests in accordance with the policy.
- Explore creative ways to encourage a range of flexible working practices for all employees.
- 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 after consulting with their employees, as a means of exploring the available options, before rejecting a flexible working request.

- 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 2 months before they wish it to take effect. Applications made within 2 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/Headteacher.

Human Resources

- Provide advice and guidance to managers and employees to ensure the right to request flexible working process is followed correctly and that a hybrid working arrangement cannot be met.
- Monitor applications to ensure fairness and consistency.
- Support the manager/Headteacher in meetings if requested and/or at an appeal.

5. PROCEDURE

Eligibility

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

Employees have the right to make **two flexible working requests a year**. Therefore, to be eligible, employees will not have made another application for the same reason under this policy during the past 6 months (from the date of the initial application). This timeline may be waived in exceptional and unforeseen circumstances.

If you have submitted a flexible working request, you must wait until that one has been considered and any appeal has been dealt with, before submitting another.

Hybrid working (Unlikely to be available within school settings)

There is a separate guidance document which sets out the Council's approach to hybrid working. Hybrid working is already available for roles that have the flexibility to work from different locations and non-standard hours.

If we do not currently offer hybrid working due to the employee's role, but they would like to request it, they should make a request under this policy.

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 (if the role is not already able to work in a hybrid way). 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, it will be dealt with as soon as possible. The decision should be made within **2 months from receipt of the application to notification of any appeal decision**.

This period can be extended by mutual agreement.

The manager/Headteacher 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 6 months.

Meeting to discuss a flexible working request

Once the manager/ Headteacher 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. It may also be held remotely where appropriate, which will be at the discretion of the manager.

The purpose of the meeting is to consult with the employee and 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.

All parties attending the meeting, or any person acting on their behalf, are not permitted to covertly record video or audio a video meeting held by the Council/school. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal. This is on the basis that we expect employees to be open and honest and to treat colleagues and others with dignity and respect, and making secret recordings undermines trust between individuals. Anyone making such recordings in contravention of this would also be personally responsible for any breach of Data Protection legislation. There is a potential that the use of non-covert audio / video recording devices may be allowed as a reasonable adjustment to accommodate a health condition where previously deemed appropriate by Occupational Health or an employee's GP/Medical Practitioner; this will be with the express consent of everyone present.

Outcome of a flexible working request

After the meeting, the manager/Headteacher will consider the proposed flexible working arrangements carefully, weighing up the potential benefits to the employee and to the Council/school 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 the employee's working hours, pattern or location.

The manager/Headteacher 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/ Headteacher will notify the employee of the decision within 10 working days of the decision. Your HR Advisor should also be notified of the outcome.

Flexible working request that has been agreed

If the flexible working request is agreed, the employee and line manager/ Headteacher will discuss how and when the change(s) will take effect. This must be confirmed in a letter (which can be sent via email). The manager should notify their Human Resources Pay & HR Administration team 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/ Headteacher should notify the employee using the template letter provided (please refer to Guidance document 6).

Legislation requires employers to consult with their employees, as a means of exploring the available options, before rejecting a flexible working request.

The manager/ Headteacher will give reasons for the rejection of any request. Those reasons must be for one or more of the statutory 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/Headteachers are not entitled to invent their own reasons however compelling they may think another reason might be.

If a manager cannot accommodate a request to work flexibly, they will be required to discuss alternative options before they can reject the request.

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/ Headteacher 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 two-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/ Headteacher 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/Headteacher 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/Headteacher 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/Headteacher's 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 (which may be sent electronically).

Data protection

When managing an employee's flexible working request, the Council/school processes personal data collected in accordance with its data protection policy. Data collected from the point at which the Council/school receives a flexible working request is held securely and accessed by, and disclosed to, individuals only for the purposes of managing his/her request for flexible working. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Council's data protection policy. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary procedure.