



## **SOLIHULL METROPOLITAN BOROUGH COUNCIL**

### **FLEXIBLE WORKING POLICY**

## **Solihull M.B.C. Flexible Working Policy – the right to request and the duty to consider.**

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## **1. Policy Statement**

The Council/Governing body recognises the importance of helping its employees balance their work and home life by offering flexible working arrangements that enable them to balance their working life with other priorities, including parental and other caring responsibilities, life-long learning, charity 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 the Flexitime recording system

This Policy applies to all employees within NJC , Soulbury and School Teachers' Pay & Conditions of Service,.

## **2. Definition**

Flexible working is a broad term used to describe the overlapping fields of:

- Changes in the nature of employment – essentially moves to greater variety and flexibility in work patterns
- Changes in technology – enabling work to be carried out in different ways.
- The Employment Act, 2002 introduced a right for employees with 26 weeks' continuous service, who have a child under the age of six (18 where the child is disabled) and parental responsibility for the child, to request a change to the number of hours that they work, the times that they work or their place of work.
- Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations come into force on 6 April 2007.

The Regulations amend the Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002 to extend the right to request flexible working to carers of adults from 6 April 2007.

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. The Purpose**

Introducing flexible working can be a highly effective way of improving morale and motivation which will in turn aid recruitment and retention. It can also reduce costs and improve the quality and scope of customer service.

It is the Council's policy to be flexible on working patterns for all its employees, in order to ensure that it is complying with its legal obligations concerning the right to request flexible working. There may be situations where priority has to be given to those who have a legal right to this arrangement.

From 6 April the Employment Act 2002 introduced a right for employees with 26 weeks' continuous service, who have a child under the age of six (under 18 where the child is disabled) and parental responsibility for the child to request a change to the number of hours that they work, the times that they work or their place of work. This has been extended to carers to have the right to request flexible working. The definition of 'carer' includes an employee who is or expects to be caring for an adult who:

- (i) is married to, or the partner or civil partner of the employee; or
- (ii) is a relative of the employee; or
- (iii) falls into neither category (i) nor (ii), but lives at the same address

Note: This procedure is to assist with a long term need and would be a permanent change to contract. If an employee has a short term need to request flexible working, this would be at the manager's discretion.

#### **4. Principles**

There are many reasons why employees may wish to request Flexible Working. The Council recognises this and this procedure provides eligible employees the opportunity to apply for flexible working. Where a Headteacher applies for Flexible Working the terms of this procedure should be amended so as to substitute where relevant the term "Headteacher" for "teacher" and "Chair of Governors" for "Headteacher"

#### **5. Responsibilities**

It is the Manager's/Headteacher's responsibility to:

- To consider requests in accordance with the procedure
- Adhere to time limits in the procedure
- Provide ongoing support and information during the course of the application
- To decline a request only when there is a clear business need and to explain to the employee in writing why it applies

- To ensure that any variation in the procedure is agreed in advance with the employee and recorded in writing
- To ensure an employee is not subjected to detriment for making an application under this right
- To ensure consistency and fairness when applying the procedure

It is an employees' responsibility to:

- To provide a considered application
- To ensure their application is valid by checking they meet all the eligibility criteria
- To ensure they have provided all the necessary information
- To ensure that the application is made at least three months before they want it to take effect
- To arrive at meetings on time and be prepared to discuss their application in an open and constructive manner
- Be prepared to be flexible themselves in order to reach an agreement with the employer

It is the responsibility of HR to:

- Provide advice and guidance to managers and employees to ensure flexible working procedure is followed correctly
- To monitor applications to ensure fairness and consistency
- Support the manager, in meetings, if requested, and/or in cases where there is an appeal

It is the responsibility of Recognised Trade Union Representatives or nominated work colleagues to:

Support and represent an employee applying for flexible working. The work colleague will be an employee within the Council and would normally be from the same work area.

## **6. Eligibility**

To apply for flexible working an employee must be an employee of SMBC and also meet the following criteria:

a. If you are applying as a parent you should:

- Have worked for SMBC for 26 weeks continuously at the date the application is made
- Have not made another application to work flexibly under the right during the past 12 months
- Have a child under six or a disabled child under 18  
Have parental responsibility for this child (this includes biological parents, legal guardians, adoptive and foster parents and spouses of these).
- Be making an application in order to care for the child

b. If you are applying as a Carer of an adult who is need of care you should:

- Have worked for SMBC for 26 weeks continuously at the date the application is made
- Have not made another application to work flexibly during the past 12 months
- Be, or expect to be, caring for a spouse, partner, civil partner or relative
- If they are not the spouse, partner or relative, they should live at the same address as the adult in need of care.

c. It is Solihull MBC's policy to give the opportunity to all employees to request flexible working, therefore you can apply if you have another reason to do so. You should:

- Have worked for SMBC for 26 weeks continuously at the date the application is made
- Have not made another application to work flexibly during the past 12 months

## **7. Making an application**

The application must:

- Be in writing to the employees line manager/headteacher, copied to your HR Consultant
- Confirm the employees relationship to the child/adult in need of care(if applicable)
- Set out the employee's proposal and explain what effect the proposal may have on the Business and how this might be dealt with.
- Specify a start date for the proposed change giving the manager/headteacher time to consider the proposal and implement it. This may take 6 weeks.
- State whether a previous application has been made and if so the date on which it was made
- Be dated

## **8. Considering the application**

The Manager/Headteacher must:

- Acknowledge receipt of the request
- Consider the application
- Hold a meeting to discuss the request within 28 working days of receipt of the application
- Write to the employee informing them of their decision within 14 working days of the meeting
- Headteachers may wish to consult with the Chair of Governors or nominated governors

## **9. The meeting**

- Employees have the right to be accompanied by a recognised Trade Union representative or work colleague
- The representative can address the meeting or confer with the employee during it, but cannot answer questions on the employee's behalf.
- If the representative is unable to attend the meeting, the employee should re-arrange the meeting for a date within 7 working days of the originally proposed time, ensuring the new time is convenient to all parties, or consider an alternative representative
- Gives both parties an opportunity to discuss the desired work pattern in depth
- Discuss an alternative working pattern if necessary
- To consider the opportunity to agree the new working pattern for a trial period, for example for 3 months, to see if it works on both sides.

## **10. The Decision**

- Must be communicated in writing within 14 working days of the meeting
- A copy of the letter should be sent to your HR Consultant.
- If the request is refused clear business reasons must be given and a right of appeal should be provided
- Business reasons for refusing an application must be from one of those detailed on page 15.

## **11. Appeal**

- An employee has 14 working days to appeal in writing after the date of the notification of the Manager's/Headteacher's decision. This should state the grounds for making the appeal and be dated.
- The appeal should be arranged within 14 working days of receiving notice of the appeal.
- The appeal should be heard by a SMBC manager more senior to the person who made the decision.
- For school based staff, 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 3 Governors (not previously involved in the case) to hear an appeal.

- The employee has the right to be accompanied by a Trade Union representative or a work place colleague.
- The employee must be informed of the outcome of the appeal in writing within 14 working days of the date of the meeting by the Chairperson of the Appeals Committee

## **12. Flexible Working Policy Guidance Documents**

The following documents are for guidance only and may be amended by SMBC from time-to-time. They are not, nor intended to be, incorporated into individual Contracts of Employment.

Flexible Working Policy Guidance Document 1 – Types of flexible working

Flexible Working Policy Guidance Document 2 – Application form

Flexible Working Policy Guidance Document 3 – Standard Template letters

Flexible Working Policy Guidance Document 4 – Business case for refusing a request

Flexible Working Policy Guidance Document 5 – Example Case Studies

Flexible Working Policy Guidance Document 6 – Frequently asked questions

Flexible Working Policy Guidance Document 7 – Procedure Flow Chart

Flexible Working Policy Guidance Document 8 – Managers /Headteachers Checklist

### **Flexible Working Policy Guidance Document 1**

#### **Types of Flexible working**

Flexible working covers a wide range of options including:

- Part time working;
- Staggered hours – can be an effective means of covering longer opening hours;
- Compressed working hours – allows employees to work their total number of hours over fewer working days. Often a five day working week is compressed into four days;

- Job sharing – involves two people carrying out the work which would normally be done by one person. The work is split but not shared;
- Shift change – a pattern of work in which one employee replaces the other on the same job within a 24 hour period;
- Term time working (applicable to non-schools only)– an employee works under a permanent contract, but can take unpaid leave of absence during the school holidays. Salary is usually paid in 12 monthly equal instalments;
- Annualised hours – the hours by which the employee is contracted to work are calculated over a whole year;
- Voluntary reduced working time (v- time ) – a system by which it is agreed that the employee will work reduced hours for a certain period of time, with a return to full time hours at the end of this period;
- Home working see SMBC policy on the HRE Intranet site.  
<http://solnet/hr/documents/pdf/Homeworking.pdf>
- Unique working patterns – these are individually tailored patterns which may involve a combination of options.
- Utilising the benefits of the flexitime system. This provides employees with the benefits of having flexible start/finish times which can be worked around core hours.

## **Flexible Working Policy Guidance Document 2**

**Private and confidential**

### **Flexible working application form.**

#### **Note to the employee**

You can use this form to make an application to work flexibly. Before completing this form, you should first read the SMBC Flexible Working Policy – the right to request and the duty to consider, and check that you are eligible to make a request.

You should note that under the right it may take up to 6 weeks to consider a request before it can be implemented and possibly longer where difficulties arise. You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect.

It will help consideration of your request if you provide as much information as possible about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be valid. When completing sections 3 and 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues. Once you have completed the form, you should immediately forward it to your manager/headteacher (you might want to keep a copy for your own records). Your manager/headteacher will then have 28 working days after the day your application is received in which to arrange a meeting with you to discuss your request. If the request is granted, this will normally be a permanent change to your terms and conditions unless otherwise agreed.

### **Note to the manager/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 have 28 working days after the day you received this application in which to either agree to the request or arrange a meeting with your employee to discuss their request.

### **Private and Confidential**

<b>1. Personal Details</b>
----------------------------

Name: Payroll number:  
Manager/Headteacher:

I would like to apply to work a flexible working pattern that is different to my current working pattern . My reason is:

**Either**

- I have responsibility for the upbringing of either:
  - [ ] a child under six; or
  - [ ] a disabled child under 18.
- I am:
  - The mother, father, adopter, guardian, special guardian or foster parent of the child; or
  - Married to, or the partner or civil partner of, the child's mother, father, adopter, guardian, special guardian or foster parent.
- I am making this request to help me care for the child.

***Or***

- I am, or expect to be, caring for an adult.
- I am:
  - The spouse, partner, civil partner or relative of the adult in need of care; or
  - Not the spouse, partner, civil partner or relative of that adult, but live at the same address.
- I am making this request to help me care for the adult in need of care.

***Or***

- Reason if different from the above

**Private and Confidential**

- I confirm that:
- I have worked for Solihull MBC continuously for 26 weeks
- I have not made a request to work flexibly under this right during the past 12 months.

Date of any previous request to work flexibly under this right:

I declare the above information to be correct. I understand that it is a disciplinary offence to provide false information on this form.

**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):**

**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:

**4. Accommodating the new working pattern**

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

Name:

Date:

NOW PASS THIS APPLICATION TO YOUR MANAGER/HEADTEACHER WITH A COPY TO YOUR HR CONSULTANT.

Standard Template letters

**Letter 1 – Invitation to Flexible Working Discussion**

Dear xxxx

Invitation to Flexible Working Discussion

I am writing to invite you to a meeting to discuss your application for Flexible Working under the Flexible Working Procedure (copy attached).

I would like to meet on.....at..... The venue for the meeting will be.....

You have the right of representation at the meeting if you wish. Your representative should be a recognised Trade Union representative or a work place colleague.

Would you please confirm your attendance to me and also let me know who you wish to bring to the meeting to represent you.

Please contact me on the above telephone number if you have any queries.

Yours sincerely

**Letter 2 – Extension of time limit letter**

Dear xxxx

Following our meeting on ....., regarding your request for Flexible Working, I am unable to make a decision within the Statutory time limit of 14 working days.

This is because (*state reason*).

I would like to extend the time limit of 14 working days to .....

If you are in agreement could you please sign the proforma below and return it to me.

Yours sincerely

---

I agree/disagree to the extension of time limit for a decision on my request for flexible working.

Signed.....

Name.....

Date.....

**Letter 3 – Application acceptance letter**

Dear xxxx

With reference to our discussion on (*date*) regarding your application for flexible working.

I can confirm that your application has been successful and your new working pattern will be..... commencing on.....

Please contact me on the above telephone number if you have any queries.

Yours sincerely

**Letter 4 - Application declined letter**

With reference to our discussion on ..... regarding your application for flexible working.

Unfortunately I have to decline your application at this stage. It is your statutory right to be given the business reasons for this decision

The grounds for declining your application are:

You have the right to appeal against this decision. If you wish to do so you should put your appeal in writing within 14 working days of receipt of this letter to .....

Yours sincerely

**Letter 5 – Appeal reply letter**

Dear xxxx

I am writing to inform you of the outcome of the appeal meeting held on ....

\*I am pleased to tell you that your appeal has been upheld. Your new working pattern will be.....commencing on .....

- I am sorry to inform you that your appeal has been not been upheld. The reasons for this are:

*State grounds and reasoning*

This constitutes Solihull MBC's *insert name of school* School's Board of Governors final decision and is the end of the formal procedure.

Yours sincerely

**Manager's/Headteacher's Checklist for  
Business Case for refusal**

If an application is refused it should only be for one of these reasons:

- the 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 structure changes

In situations where an employee's request is declined, it will be the manager's responsibility to identify the business rationale that supports the decision.

### Example Case Studies

1. A teacher wanted to reduce hours and undertake Teaching and Learning Responsibilities(TLR) on a part time basis. This was agreed in part in that the teacher could work reduced hours but would not be able to work TLR on a part time basis due to its nature. Both parties agreed to this.
2. A work area has several employees on maternity leave at roughly the same time. They all request flexible working on different dates wanting to work 18.5 hours per week, Monday, Tuesday and Wednesday morning. This is not a viable business proposition. The applications are dealt with on a first come first served basis, with discussion about flexibility on the days worked. Agreement was gained so all employees worked the 18.5 hours but agreed to work different days in some cases.
3. A Support Worker requests flexible working wanting to work 9.00- 12.00 on three days per week. The employee's work is predominantly in the afternoon. The manager explained this and asked if the employee could work afternoons instead of mornings on these days. The employee said that this was not possible. Therefore the request was declined on the basis that the employee is needed at work in the afternoons.
4. A teacher applies for flexible working and specifically asks for job share. There are already job share arrangements in the school and it would be difficult to justify any more. Added to this is the difficulty of recruiting to job share posts. In the meeting, the Headteacher asks the teacher to consider working part time hours but more than half a post. The teacher agreed to this on a trial basis. At the end of the trial period the arrangement worked and was formalised.

## **Flexible Working Policy Guidance Document 6**

### **Frequently Asked Questions**

#### **Flexible Working Procedure**

**Q1) What is flexible working?**

A1) Flexible working includes part time working, staggered hours, compressed working hours, job sharing, shift working, shift swapping, self-rostering, term time working..

**Q2) To what extent should an employer consider a request to work on a job share basis?**

A2) Employers should not dismiss any flexible working requests without due consideration. It is important that an employee may be able to claim sex discrimination, as well as a breach of the flexible working provisions, if his or her request is rejected without due consideration. The employer should take reasonable steps to find a job share partner.

**Q3) Can an employer turn down an application for flexible working if the employee's role involves managing staff?**

A3) Employers should explore the possibility of flexible working whatever the job role

**Q4) I have more than 26 weeks continuous local government service , but am a new employee to Solihull Council, can I apply for Flexible Working?**

A4) You must have worked for Solihull Council for 26 weeks.

**Q5) If my request for flexible working is turned down and appeal rejected and I am unhappy, can I raise a grievance under the grievance procedure?**

A5) There is nothing to stop an employee raising a grievance under the employer's grievance procedure.

**Q6) Can I apply for flexible working to care for a relative who lives overseas?**

A6) It is unlikely that this would be the best option to care for relatives living overseas. It would be more likely that an employee would request a block of paid/unpaid leave which would depend on service needs.

**Q7) If a flexible working arrangement has a trial period how long should it last?**

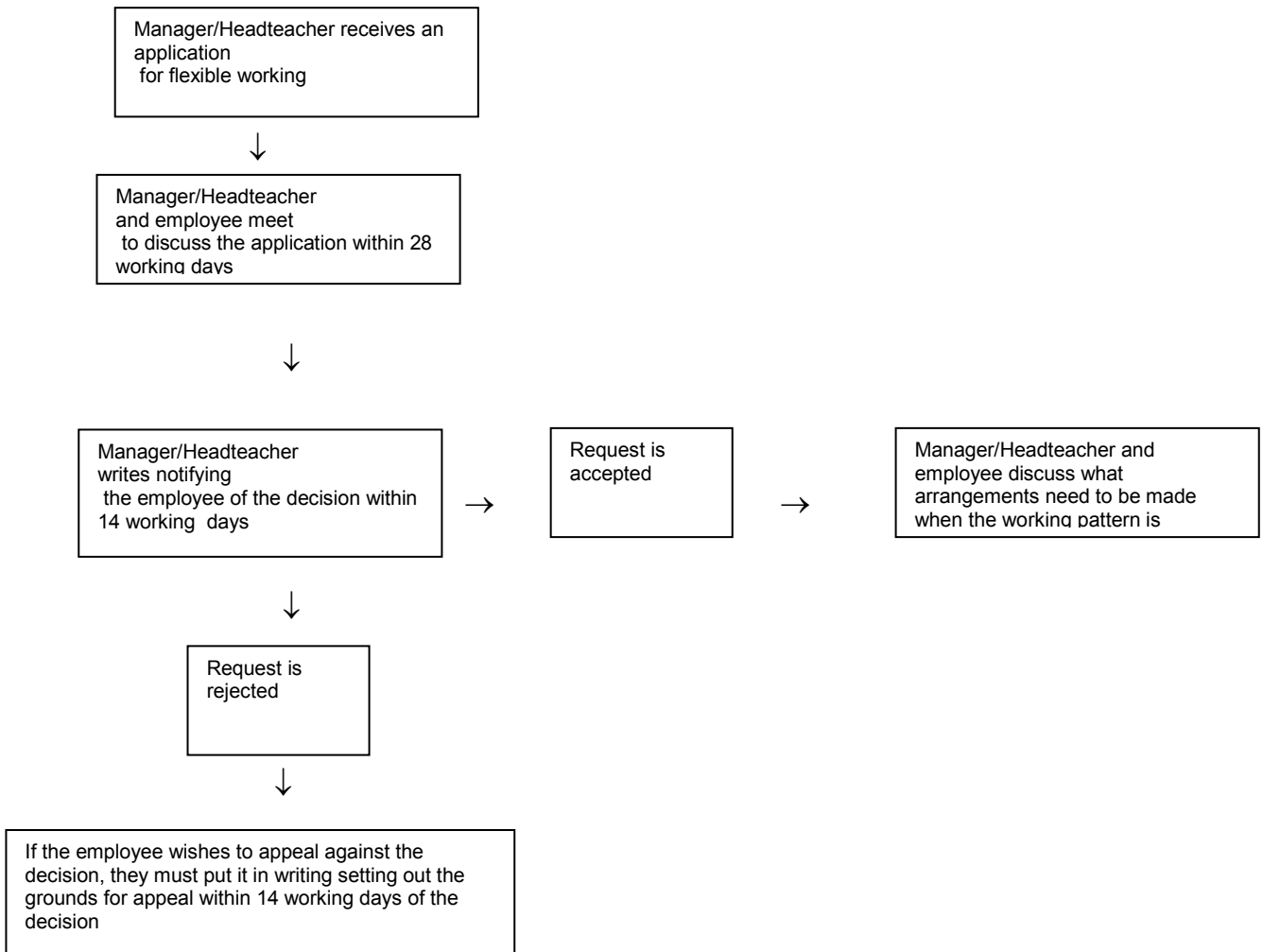
A7) It should be long enough for the employer to have a good idea as to whether the working pattern would be practicable and viable on a long term basis

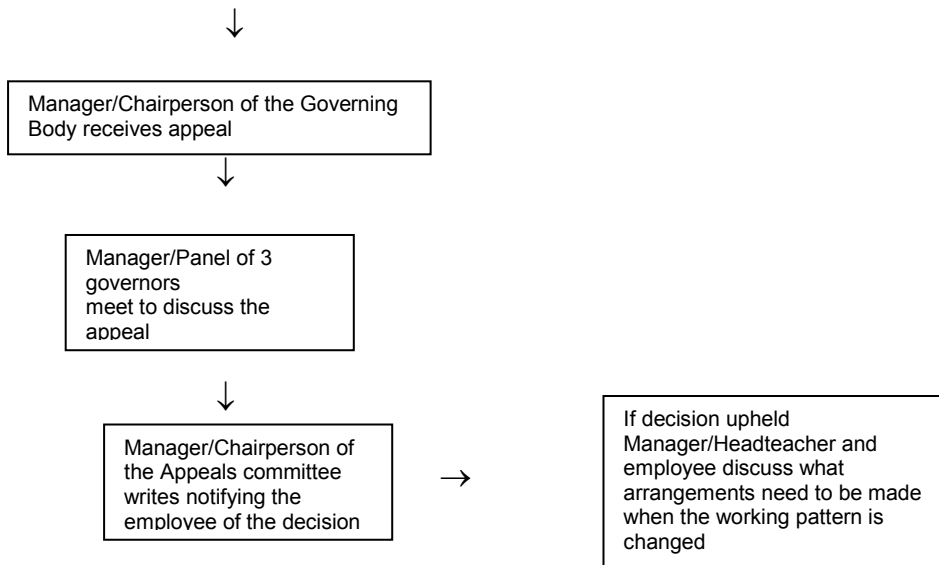
**Q8) If a job share arrangement is agreed, subject to recruitment to the job share partner post, can the decision be reversed, if recruitment isn't possible?**

A8) If recruitment is not possible to the job share partner role, the flexible working application will be reviewed.

## Flexible Working Policy Guidance Document -7

### How does the process work?





## Flexible Working Policy Guidance Document 8

### Application for flexible working Meeting Agenda Template

NB. Prior to meeting with the employee the line manager should see if any other members of team are looking for a change of hours which may help to accommodate the request for flexible working.

1. If no union rep present, ask employee if happy to proceed.
2. Confirm details of request (date with effect from? Number of hours? working pattern?)
3. Demonstrate to employee that the council/school is pro family flexible working and will wherever possible try to accommodate any requests for flexible working.
4. Remind employee that any change to hours would be a permanent change of contract
5. Remind employee that pay will be reduced accordingly to any change to hours
6. List any ways in which the service will benefit from the requested change
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7. List business reasons for why request may be difficult to accommodate

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8. Work through list, discussing all available options and asking employee for suggestions on how each concern may be overcome.
9. Consider whether a trial period would be appropriate to see how new working pattern suits both parties.
10. Check whether there are any other working patterns that the employee would be willing accommodate.
11. Confirm that management may need to consider requests from other colleagues before confirming whether request has been accepted/declined
12. Confirm to the employee that the manager/Headteacher will write, within 14 working days of the meeting to consider the application, in order to report the decision and to remind the employee of their right to appeal. (within 14 working days of receiving the letter)

### **Monitoring of this policy**

- Employee awareness of this policy will be reviewed annually.
- All requests for flexible working will be recorded on Oracle.
- Analyse annually by Directorate: the number of requests received, requests agreed and rejected and the percentage of employees working on a flexible working pattern (by gender, ethnicity, age).
- Directorates/ Headteachers will review the operation of flexible working paying particular attention to employee satisfaction.