

ST CUTHBERT MAYNE SCHOOL
Joint Catholic and Church of England 11-18 Comprehensive School
Dioceses of Plymouth and Exeter



St Cuthbert Mayne School
Flexible Working Policy

Approved by Resources Committee: November 2023

Reviewed by Full Governing Body: December 2023

Next Review Date: November 2024

1 Introduction

Under the Flexible Working Regulations 2014, employees with at least 26 weeks service have the legal right to request flexible working. The variations which might be requested include changes to working hours, revised start and finish times and working from home, for example. The School has a legal obligation to give reasonable consideration to a flexible working request and requests can only be refused when there is a clear business reason.

Requests for flexible working deal with permanent variations to work, therefore if a change to an employee's contract is agreed, it will be a permanent variation and there is no automatic right of the employee to revert back to the former working arrangements. However, this does not prevent any employee from making a request for a temporary adjustment to their line manager, in such cases this would be dealt with informally (outside of these procedures, but using these procedures and principles as a guide), though Human Resources would need to be notified of any temporary changes to terms and conditions.

If a request is refused, another cannot be made until 12 months after the date the previous request was made.

2 Scope

This policy will apply to all School employees and also includes Governors and agency/supply teaching staff. [Include Visitors/Volunteers/Contractor staff – delete as appropriate].

3 Equality Statement

This policy applies equally to all School employees regardless of their age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage or civil partnership. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

4 Who does the legal right apply to?

Employees have the legal right to request flexible working if they have:

- 26 weeks continuous service with the School at the date of application *and*
- Not made another application during the past 12 months

4.1 What can be requested?

All employees, regardless of whether they are covered by the 'legal right' can request changes to vary:

- The number of hours they are required to work
- The times they are required to be at work
- Where they are required to work - i.e. can request that they work full time or on an occasional basis from home.

Changes to working hours can include:

- Working part time
- Working annualised hours (a total number of hours to be worked per year, but not over a fixed weekly pattern)
- Compressed working week (e.g. 37 hours over less than 5 days)

- Greater flexibility in existing flexitime arrangements
- Job sharing (where 2 people share responsibility for 1 post)
- Working some form of shift working
- Term-time only working (in the case of Business Support staff).

5 Making an application

The right to request flexible working legislation requires that employees must make their request in writing, setting out the following information:-

- Date of the application, the change to working conditions they are seeking and when they would like the change to come into effect;
- They are making the application under their legal right to request flexible working and if they have made a previous application for flexible working and the date of the application.
- The change applied for (e.g. wanting to work part-time, including details of the hours they'd prefer to work) and the date they wish it to become effective
- The effect they envisage the change they are requesting will have on the School /their work area and how it might be accommodated.
- If the employee is making their request in relation to a making a reasonable adjustment for a disability (under the Equality Act 2010), they should also make this clear within their request.

Applications should be made in writing by the employee to the Chair of Governors, who will allocate it to the appropriate committee.

The Application for Flexible Working Request Form may also be used for making a formal flexible working request. The form is available from the portal page.

6 Considering an application

The School is strongly advised to consult their HR Advisor if they receive an application from an employee. This is to help ensure applications are dealt with in a consistent and equitable way across the School.

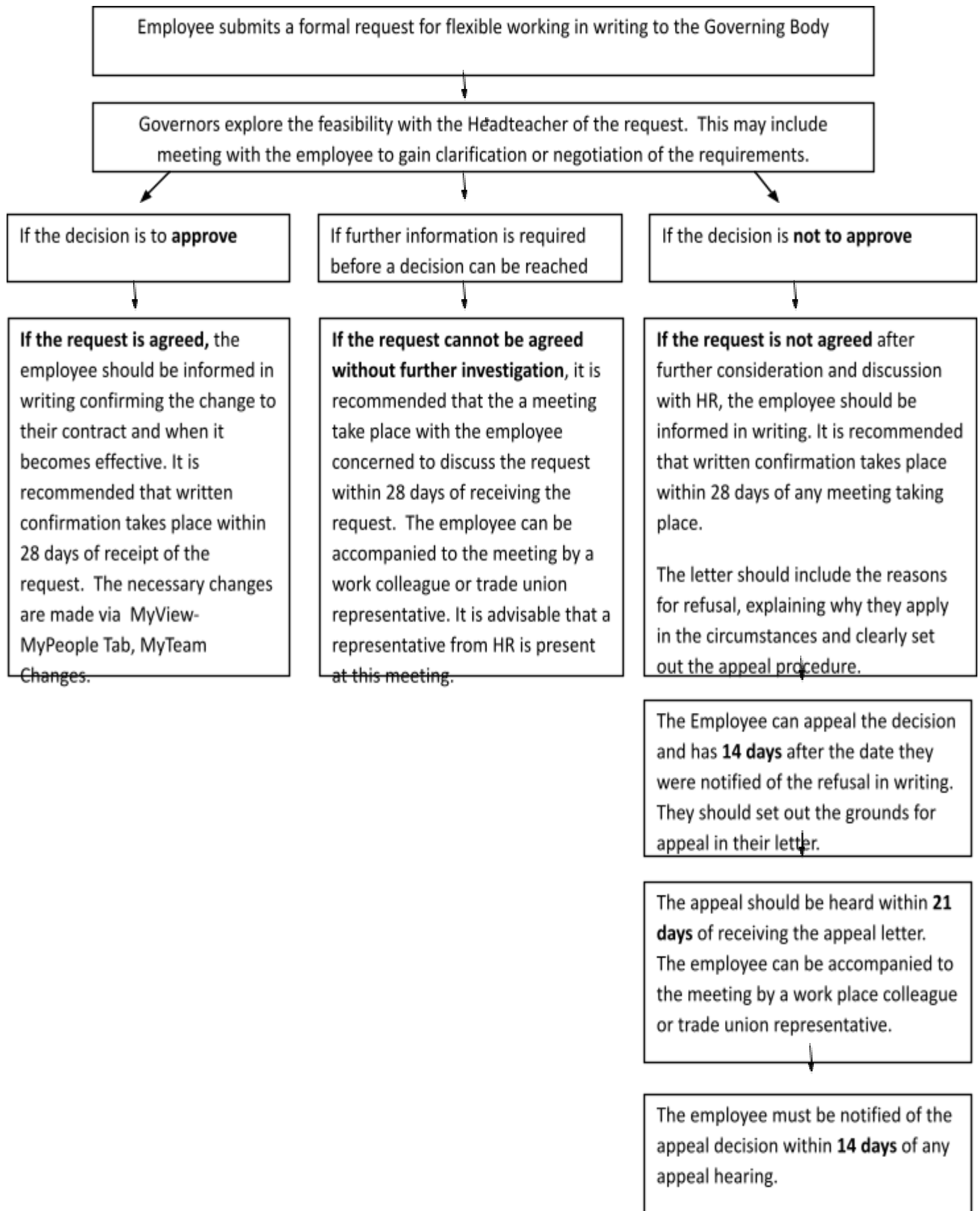
Each request will be dealt with individually, taking into account the likely effects that the proposed changes to working hours or place of work are likely to have on the School, the work of the department in which the employee making the request is employed and the employee's colleagues. Agreeing to one employee's request will not therefore set a precedent or create a right for another employee to be granted a similar change to his/her working pattern.

Schools are not automatically obliged to agree to a request for flexible working but are under a duty to consider any valid request seriously. The following process should be followed in dealing with a flexible working request.

Note to Schools:-

The legal timescale for considering a Flexible Working Request is now 3 months from when the request was made (including any appeal stage). The timescales set out below are recommended in accordance with best practice and to ensure fairness and consistency in dealing with requests. Voluntary Aided and Foundation Schools may wish to adopt their own timescales, as long as requests are dealt with within the 3 month legal timescale.

Flowchart



7 Making a fair decision?

If the School receives more than one application for flexible working at the same time, it is important that you make a fair and reasoned decision in the circumstances and taking into account the possible consequences for the School. Whatever the process and decision results in, it is well-advised to keep a record of all your decisions.

Where the School receives more than one request, they should be dealt with in the order that they are received. School managers are not required to make value judgements about the most deserving request. Each request will need to be considered on its own merits, taking into consideration the business case and the possible impact of refusing a request. Further discussions may be needed to see if there is any room for adjustment or compromise before coming to a decision.

Human Resources can be sought to help to arrive at a fair and consistent decision.

8 On what grounds can a request be refused?

In line with the statutory ACAS Code of Practice – Handling in a Reasonable Manner Request to Work Flexibly (June 2014), the only grounds for refusal are “business reasons”, as set out in legislation:

- the burden of additional costs
- an inability to reorganise work amongst existing staff
- an inability to recruit additional staff
- a detrimental impact on quality
- a detrimental impact on performance
- detrimental effect on ability to meet customer demand
- insufficient work for the periods the employee proposes to work
- a planned structural change to your business.

If a request is refused, the employee must be provided with an explanation as to why the particular reason (from the list above) applies in their particular circumstances.

9 Appeal

Under this policy, the employee can appeal the decision and under this policy has 14 days after the date s/he was notified of the refusal to appeal in writing, setting out the grounds of appeal.

Any appeal should normally be heard by the line manager of the person who refused the initial request and heard by the Personnel Committee within 21 days of receiving the employee’s letter. An employee may be represented by a work colleague or trade union representative.

The employee must be notified of the decision within 14 days of any appeal hearing. If the request is again refused, then the reasons for refusal must be set out in writing, explaining why they apply in these particular circumstances.

If the request is accepted following the appeal hearing, the employee will be notified of the change to their working pattern in writing and when it will start (as set out previously).

In exceptional circumstances, it may not be possible for hearings to be arranged or responses to be given in line with the time limits set out above (e.g. the line manager is absent). In such cases, the employee should be informed and any hearing arranged at the earliest possible mutually convenient date.

If the employee is dissatisfied with the way it's been handled s/he can raise a grievance under the organisation's grievance procedure.

If an employee fails to attend a meeting, including an appeal meeting and the fails to attend a rearranged meeting without good reason, his/her application will be deemed to have been withdrawn.

10 External appeals (to an Employment Tribunal)

Employees covered by the legal right to request flexible working have the right to complain to an employment tribunal if they are dissatisfied with the outcome of an internal appeal.

An eligible employee can complain to an employment tribunal that the School or School:

- Failed to hold an initial or appeal hearing
- Failed to provide notice of a decision in accordance with the statutory time-scale (3 months)
- Rejected the application based on incorrect facts

A complaint would normally have to be brought within 3 months of any appeal hearing or date when it is alleged the procedure was not followed.

If a claim is brought, the tribunal will look as to whether all proper procedures have been followed and will examine any disputed facts as to why the relevant business grounds for refusal apply.

If an employee's complaint is upheld by a tribunal, they can order that:

- The request by the employee should be reconsidered *and/or*
- Compensation be paid (up to a maximum of 8 weeks' pay);
- The complaint be referred to arbitration by ACAS (both parties have to agree to this as a potential remedy)

Schools are advised to consult their HR Advisor if they receive an application for flexible working and are considering refusing the request.