

SHINE

ACADEMIES



Flexible Working Policy and Procedure

Policy Owner: SHINE Academies CEO

Policy Date: March 2024

Policy Review Date: Policy will be reviewed in line with SHINE's internal policy review schedule and in consideration of the DfE guidance on statutory policies.

This policy has been agreed as being fully consulted on with the following trade unions ASCL, NASUWT, UNISON, NEU and GMB and was implemented by Central Learning Partnership Trust on the above date

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1.0 Introduction

- 1.1** SHINE Academies following consultation with unions has developed a flexible working strategy that provides a policy and procedural framework within which employees and Headteachers/Senior Leaders can explore flexible working arrangements.
- 1.2** The intention of flexible working arrangements should be to accommodate both School delivery need and the employee's needs for work life balance. It is also recognised that flexible working arrangements can aid staff retention, reduce recruitment costs, raise staff morale, and decrease absenteeism, and enables employers to react to changing market conditions more effectively.
- 1.3** Legislation introduced under the Employment Act 2002, which took effect from 6 April 2003, placed a duty on employers to seriously consider requests for flexible working. These regulations have been amended by the Flexible Working (Eligibilities, Complaints and Remedies) Regulations 2009 which took effect from 6 April 2009 and the Flexible Working Regulations 2014. The Employment Relations (Flexible Working) Act 2023 is due to come into force during the summer of 2024, this policy will be reviewed considering this legislation.

The regulations do not provide employees an automatic right to working flexibly.

- 1.4** This document should be read in conjunction with the Leave of Absence for Reasons other than Sickness and any relevant DfE guidance regarding workload. This document should be read in conjunction with the Leave of Absence for Reasons other than Sickness (which can be accessed on Shared policy area) and any relevant DfE guidance regarding workload(which can be accessed on DfE website <https://www.gov.uk/government/organisations/department-for-education>)

2 Eligibility

- 2.1** In order to make a request for flexible working an individual will:
- be an employee
 - not be an agency worker
 - not have made more than two applications to work flexibly under the right during the past 12 months
- 2.2** 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
 - to work from home

- 2.3** Working patterns such as the following, however, not all are conducive to school environments:
- compressed hours - working full-time hours but over fewer days.
 - staggered hours - the employee has different start, finish, and break times from other workers (this would be dependent on each individual application and situation).
 - part time working - usually characterised by working less than full time hours and/or working fewer days.
 - job sharing - two or more people do one job and split the hours (for more information regarding job sharing see **Section 6** of this policy).
- 2.4** Further information and guidance on flexible working and the potential benefits can be found in the DfE's February 2017 (updated December 2020) publication "Flexible Working in Schools" at <https://www.gov.uk/government/publications/flexible-working-in-schools>.
- 2.5** Employees can make two flexible working requests a year. An accepted application will usually result in a **permanent change** to the employee's terms and conditions of employment.
- 2.6** New vacancies within the school will be advertised in line with the School's Recruitment and Selection Policy.

3 The Procedure

3.1 A Flow Chart outlining the procedure is attached at **Appendix B**.

3.2 Stage 1 - Requesting Flexible Working

3.2.1 The employee must make the request for flexible working in writing to the Headteacher. In the case of the Headteacher making an application this should be submitted to the CEO. In both cases this should be via the standard pro-forma attached at **Appendix A** of this policy

3.3 Stage 2 – Arranging a Meeting

3.3.1 Within **28 days** of receiving the written request the Headteacher will arrange to meet with the employee. This will provide the Headteacher and the employee with the opportunity to explore the desired work pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative working patterns should there be problems in accommodating the desired work pattern outlined in the employee's application. The employee has the right to be

accompanied at the meeting by a trade union official or fellow worker. If the employee's representative is unavailable at the time of the proposed meeting, the Headteacher must postpone the meeting to a time proposed by the employee, provided it is convenient to all parties and is within 7 days of the original date.

- 3.3.2** Guidance notes for Headteachers when considering a request for flexible working from an employee is attached at **Appendix C** of this policy.

3.4 Stage 3 – Responding to the Request

- 3.4.1** Within 14 days after the date of the meeting the Headteacher must inform the employee of the outcome in writing. Employees will receive an outcome to their flexible working request within two months of submitting the request.

- 3.4.2** If the new working arrangement is agreed, the Headteacher must set out, in writing, details of the agreement and the effective date. This should be copied to the Trust's HR provider to ensure updating of the employee's personal file/payroll records.

- 3.4.3** If the request cannot be accepted for organisational reasons the Headteacher must notify the employee, in writing, of the ground(s) for refusal with extended reasoning why the organisational reasons apply in the circumstances. Details of the employee's right to appeal must also be provided.

- 3.4.4** It is not acceptable to turn down a request based on the outcome of a similar request made by another employee. It is also not necessary to accept a request simply because another individual is already working a similar flexible working arrangement. However, the only valid reasons for refusal must be one or more of the following as set out in the legislation:

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

- 3.4.5** In considering these reasons an employer must be careful not to inadvertently discriminate against particular employees because of their

protected characteristics¹ such as where, flexible working arrangements would be a reasonable adjustment for a disabled employee. Where the request indicates that it is being made in relation to the Equality Act 2010, you should seek HR advice. An employer should also be careful not to discriminate against employees directly or indirectly, for instance, when dealing with requests from employees with childcare responsibilities. For more advice on avoiding discrimination, see ACAS guidance at: www.acas.org.uk/media/pdf/1/7/The-right-to-request-flexible-working-the-Acas-guide.pdf

1. The Equality Act 2010 prohibits discrimination because of protected characteristics. These are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation

3.5 Appeals Procedure

- 3.5.1** If the request has been declined, an employee must make their appeal in writing to the CEO within 14 days after the date they receive written notification that their request has been refused. The employee must set out the grounds for making the appeal and ensure that it is dated.
- 3.5.2** An appeal meeting must be held with the Appeals Committee of the Trustee Board within 14 days of receipt of the employee's appeal letter. Again, this will be at a mutually convenient time and place, confirmed in writing and the employee has the right to be accompanied by a work colleague or trade union official.
- 3.5.3** The Chair of appeals committee must notify the employee of his/her decision within 14 days of the date of the appeal meeting..
- 3.5.4** If the request is accepted, the employee must be informed of the variation agreed and the date on which it is to take effect.
- 3.5.5** If the request is declined, the employee must be informed in writing giving details of grounds for refusal, and extended reasoning for why they apply in the circumstances.
- 3.5.6** There will be no further recourse to appeal unless an employee chooses to complain to an Employment Tribunal, for example, on the basis that the employer has:
 - failed to hold the initial meeting
 - failed to provide notice of a decision in accordance with the timescale, or

- rejected the application based on incorrect facts (a claim for this reason can only be brought after the application has been rejected on appeal).

3.5.7 The complaint must be brought within three months of the refused application.

3.6 Time Limits

3.6.1 Time limits set out in the procedure can be extended if the Headteacher and employee agree to allow except for the condition in 3.5.7, for example, more time to explore the implications of a flexible working pattern, or to accommodate staff absences.

3.7 Withdrawing Applications

3.7.1 If an employee verbally withdraws their application, the Headteacher should write to them to confirm this. Where the employee fails to meet their responsibilities, the Headteacher may also treat an application as withdrawn. This will apply:

- when an employee fails to attend a meeting more than once, without reasonable cause,
- If an employee unreasonably refuses to provide the manager with information required to assess whether the working arrangements can be agreed to.

3.7.2 In these circumstances, the Headteacher should write to the employee to confirm that the application has been withdrawn.

3.7.3 These points are important in terms of demonstrating that the employer has complied with the procedure and time limits in the case of a dispute.

4 Returning from Maternity Leave

4.1 In accordance with the Maternity Scheme Policy for all employees of SHINE Academies, women returning from maternity leave have the right to return to work on reduced hours for up to 13 weeks (for more information on rights to returning to work please refer to the Maternity Policy). Women considering working reduced hours, or wishing to job share, after this period should follow guidance outlined in this policy (see **Section 6** of this policy for information regarding applying for job sharing after returning from maternity leave).

5 Employees Nearing Retirement

5.1 Employees nearing retirement who are considering making a request to work reduced hours are advised to discuss the effect of this on their pension entitlement with their pension provider.

6 Job Sharing

6.1 What is job sharing?

6.1.1 Job sharing occurs when two employees divide one post between them. There is a shared responsibility for a single post incorporating the full range of duties and responsibilities. Each sharer does a proportion of the hours and work (usually, but not necessarily half). Pay and other benefits are divided pro rata to the hours worked.

6.1.2 Job sharing requests are normally considered in relation to the duties and responsibilities of a full-time post. However, job-sharing requests for any other contract, i.e., part-time posts, remain within the discretion of the Headteacher or Chair of Governors.

6.1.3 Job sharers enjoy the same terms and conditions of employment as full time employees, on a pro-rata basis, this includes clear process for performance management.

6.2 When can job sharing commence?

6.2.1 Job sharing can commence when a suitable job share partner has been appointed. The decision of the interview panel would be binding on the post holder. If no suitable job share partner can be found, the post holder will continue to work their contractual hours.

6.3 Applying for Job Share after Returning from Family Leave

6.3.1 Women wishing to job share after returning from family leave should give at least three months' notice of their wish to job share. They should, therefore, apply when they are requesting to return to work. If it is possible to give any additional notice this will assist in the process, to allow time for their flexible working request to be considered in accordance with the time scale set out in this procedure (see **Section 3** above) and for a suitable job share partner to be recruited.

6.3.2 Headteachers/Governing/Trust Boards should be aware that employees returning from maternity leave are able to request job sharing and that requests to job share should not be unreasonably refused (see paragraph 1.3 above).

6.3.3 If the application is approved but no suitable job share partner can be found by the required date, then the employee would be expected to return to work their contractual hours until a partner is found. However, it is at the discretion of the Headteacher if they are willing to allow the employee to work the reduced hours even if a partner has not been recruited.

6.4 Factors for consideration when posts are shared

6.4.1 The following factors will need to be considered when an application for job sharing is received.

6.4.2 Does the job involve:

- two people jointly undertaking the whole job; or
- the job being split into two separate components with the duties also being apportioned between the two sharers. (It is not necessary to rewrite the job description, but it is essential for Headteachers/Governing/Trust Boards to agree with job sharers which aspects each will carry out).
- the hours of work and pattern which will apply
- can the existing employee commence working Job Share while the vacant half is advertised, or is this dependent on the other sharer being ready to start?

6.5 Filling of vacancies on a job share basis

6.5.1 Applications for job share will be treated on the same basis as full-time applications with the same criteria for short listing.

6.5.2 All job shares applications shortlisted, whether a single or joint application, (i.e. two job sharers applying together for one post) will be interviewed initially on an individual basis.

6.5.3 Where joint applications are made, it should not be assumed that if one partner is successful the other partner is also guaranteed appointment. Applicants should be assessed on their individual merits.

6.5.4 Where communication and mutual co-operation between job sharers is considered important, Headteachers/Governing/Trust Boards may also wish to see candidates together in order to assess the way they will jointly fulfil the demands of the job.

6.5.5 Where the Headteacher/Governing/Trust Board considers the most suitable candidate to be a single job share applicant they may extend the period of recruitment in order to find a suitable partner. It is the responsibility of the interview panel to ensure that the qualities of single job share applicants are given equal consideration to those candidates who are not requesting job share.

6.6 Procedures when one job sharer leaves

6.6.1 In the event of one job sharer ceasing to continue working in the job share arrangement, the remaining employee should be offered the vacant hours within the

post and given 10 working days to consider the offer. If this offer is declined, then the post can be advertised for another job sharer.

6.6.2 Pending appointment, the remaining partner may consider temporarily working the additional vacant hours required. If so, the employee would be paid for the additional hours worked. It is important to recognise that this is voluntary, and no pressure should be placed on the sharer to cope with more than a fair share of the workload.

6.6.3 If, however, no suitable partner is recruited within a reasonable period, then the Headteacher/Governing/Trust Board should consider other ways for the remaining post holder to continue to work part time, such as maintaining the post as a permanent part time post to be filled by the remaining job share partner.

6.6.4 Where it has not been possible to appoint a job share partner a decision might be taken to reinstate the post in line with its full contractual hours. The remaining employee would then be faced with the choice of taking up the full contractual hours of the post or seeking other employment. If in these circumstances, the employee is still unable or unwilling to resume the full contractual hours of the post, resume full time working the employer may be able to assist the employee in securing alternative employment. There is no guarantee, however, that alternative employment would be available.

6.7 Managing a job share partnership

The commitment of all parties to the arrangement is crucial. The key elements to successful job share arrangements are:

- Good communication - Good communication between job sharers and the Headteacher is essential. Arrangements for communication should be clarified at the outset. It is important to keep both job sharers fully involved in the life and work of the school, and the informal life of the school such as social events.
- Planning - The days and times of staff meetings should be arranged so that both job sharers are able to attend on occasions.
- Organisation of work - Headteachers should agree clear guidelines as to how the arrangement is to operate in relation to work practices, areas of responsibility, communication with other staff and parents.
- Review - There should be regular reviews to support the job sharers and to ensure equitable division of work and monitor progress. Job sharers are a team and have their own strengths and weaknesses.

6.8 Guidance for job sharers

6.8.1 Clarify the sharing arrangements before the job share begins.

6.8.2 Develop systems of verbal and written communications to ensure continuity and consistency.

6.8.3 Consult your job share partner on important decisions relating to work.

6.8.4 Contribute to regular review/overlap meetings with your job share partner and the Headteacher, to monitor each other's progress with tasks and to plan future activities.

6.9 Terms and conditions of employment for job sharers

6.9.1 As a basic principle, all terms and conditions will be applied in the same way as they would be to a full-time appointment and pay and conditions will be pro-rata to the number of hours worked. Participation in the job share scheme does not affect the opportunity for incremental credit, any teacher who completes 26 weeks aggregate service in an academic year qualifies for incremental progression. Non-teaching staff would continue with their normal incremental progression until the maximum of the scale is reached.

6.9.2 Contract of employment

Each partner to a job share will hold individual contracts of employment, this includes clear process of performance management.

6.9.3 Job title, job description

Each partner to the job share will have the same job description and job title. If necessary, an addendum may be included in the job description indicating any necessary division of tasks between job sharers.

6.9.4 Hours of work

The division of the working week will be by agreement with the Headteacher/Governing/Trust Board and the job sharers, based on the curriculum and organisational needs of the school. Provision should be made for the sharers' hours to overlap at some stage to allow for communication. This should be achieved within the normal established total hours. The time for any overlap must be laid down in the job description.

6.9.5 Annual leave

Normal leave entitlement for the post/individual will be pro-rata to the hours worked. This applies to non-teaching staff.

6.9.6 Probationary/induction period

Each job sharer (non-teaching employee) will be expected to work a probationary period in accordance with the employer's scheme in order to establish their suitability for the post as stated in the relevant conditions of the job. Job sharers will have access to in-service training opportunities on the same basis as full time employees.

6.9.7 Grievance/disciplinary procedures

The normal disciplinary rules and grievance procedures will apply to job sharers as they do to full time employees.

6.9.8 Periods of notice

The minimum periods of notice are as laid down for full time employees in accordance with their conditions of service.

6.9.9 Salary

The salary applicable will be on the scale approved for the post but pro rata to the actual hours worked. Individual sharers with different experience and lengths of service may be appointed at different salary points, but by incremental progression both may achieve the maximum of the scale.

6.9.10 Sick pay

Job sharers shall receive sickness payments and entitlements on the same basis as full-time employees, but pro rata to the number of hours worked.

6.9.11 Maternity leave

Job sharers shall be entitled to leave under the Maternity Scheme in accordance with their conditions of service.

6.9.12 Paternity leave

Job sharers are entitled to paternity leave on the same basis as full-time employees but pro rata to hours worked.

6.9.13 Length of service

For the purpose of assessing eligibility for annual salary increments and entitlement to sick pay etc, service is not considered to be pro rata e.g., an employee commencing service 2013 will be deemed to have five years' service in 2018.

6.9.14 Career development

Individual job sharers and job-sharing partnerships are eligible to apply for promotion to appropriate jobs on equal terms with full time employees. In the case of joint applications, as previously mentioned, both partners would not automatically be guaranteed appointment.

6.9.15 In-service/training days

Job sharers will have access to in-service training opportunities on the same basis as full-time employees. Job sharers may be asked to attend all school training days and adequate notice of these dates should be provided, where possible. Where training days are held on the job sharer's non-working days, attendance will not be mandatory; however, it should be open to the employee to attend on such days by mutual agreement with the Headteacher. Schools should ensure that payment is made or appropriate time off in lieu, where such days are in excess of the contractual provisions. Should the employee be unable to attend on their non-

working day, schools should ensure that the employee is given equal opportunity to access the training provided, where practicable to do so.

6.10 Pension

6.10.1 Teachers

The position of new teachers entering the pension scheme, and existing teachers remaining in it on becoming job sharers, is governed by the Teachers' Pension Regulations.

The Teachers' Pension Scheme treats part time employees in the same way as full-time members. If a teacher works part time the whole period counts towards their qualifying service including the days they do not work. However, their benefits are based on the pensionable earnings they receive.

More information is available from www.teacherspensions.co.uk
Telephone number: 0345 6066166

6.10.2 Support Staff

Non-Teaching staff will be auto enrolled into the Local Government Pension Scheme (LGPS) in accordance with their contract.

Whether full time or part time, the pension is based on the amount equal to a 49th of their pensionable pay in each 12-month period ending 31 March, being added together and the total amount is paid as an annual pension. In addition, an amount reflecting the CPI is added to the sum on an annual basis.

For more details contact the West Midlands LGPS help line or ask the Trust Business Manager who can provide more details.

More information is available from the West Midlands Pension Fund
Telephone number: 0300 111 1665
Email: pensionfundenquiries@wolverhampton.gov.uk
Website: www.wmpfonline.com

7.0 Equality Impact Assessment

The Trust Board will monitor the outcomes and impact of this policy on an annual basis, to ensure that no groups or individuals with protected characteristics are inadvertently disadvantaged by the policy or practice.

Appendix A
Application for flexible working

Please complete this form and forward to the Headteacher (in the case of a Headteacher making an application this should be forwarded to the CEO) and retain a copy for yourself.

Personal Details

Full Name:

Address:
.....

Job Details

Post: **Grade:**

School/Working Location:

Currently Contracted Hours Per Week:

Current Working Pattern:

Flexible Working Request Details

Are you requesting to job share your post? Yes/No *(delete as appropriate)*

Requested working hours:

Requested working pattern:

Monday **Tuesday**

Wednesday **Thursday**

Friday **Saturday**

Sunday

Suggested commencement date of working arrangement*:.....

.....

*Please note that any agreed job share arrangement would normally come into effect only when the other job share appointment has been made.

Are you making this request in relation to the Equality Act 2010?

Yes

No

a) If Yes, please provide details

.....

.....

.....

.....

.....

.....

b) Please summarise the impact that the adjustment would have in relation to the above details.

.....

.....

.....

.....

.....

.....

Please outline your reasons for request if not covered above:

.....

.....

.....

.....

.....

Date of any previous application to work flexibly:

Any other comments in support of application:

.....
.....
.....
.....
.....

(Please continue on a separate sheet if necessary)

By signing this form, you accept that this application, if approved, will result in a permanent change to your terms and conditions of employment. Unless otherwise explicitly agreed in writing.

Signature: Date:.....

Please forward to your Headteacher who will arrange to meet you within 28 days of receipt. If you do not receive a response within this timescale, please write to Chair of Governors attaching a copy of this form.

FOR SCHOOL/OFFICE USE ONLY

Date received:

Date of meeting (stage 2):

I approve / do not approve* the application (**delete as appropriate*)

Date of notification of decision to employee:

Start date (if applicable):

If job share approved, please state basis of job share:

.....
.....
.....

Subject to the appointment of a suitable job share partner YES/NO (*delete as appropriate*)

If job share not approved, please state reason(s) why:

.....
.....
.....

Name: Designation:

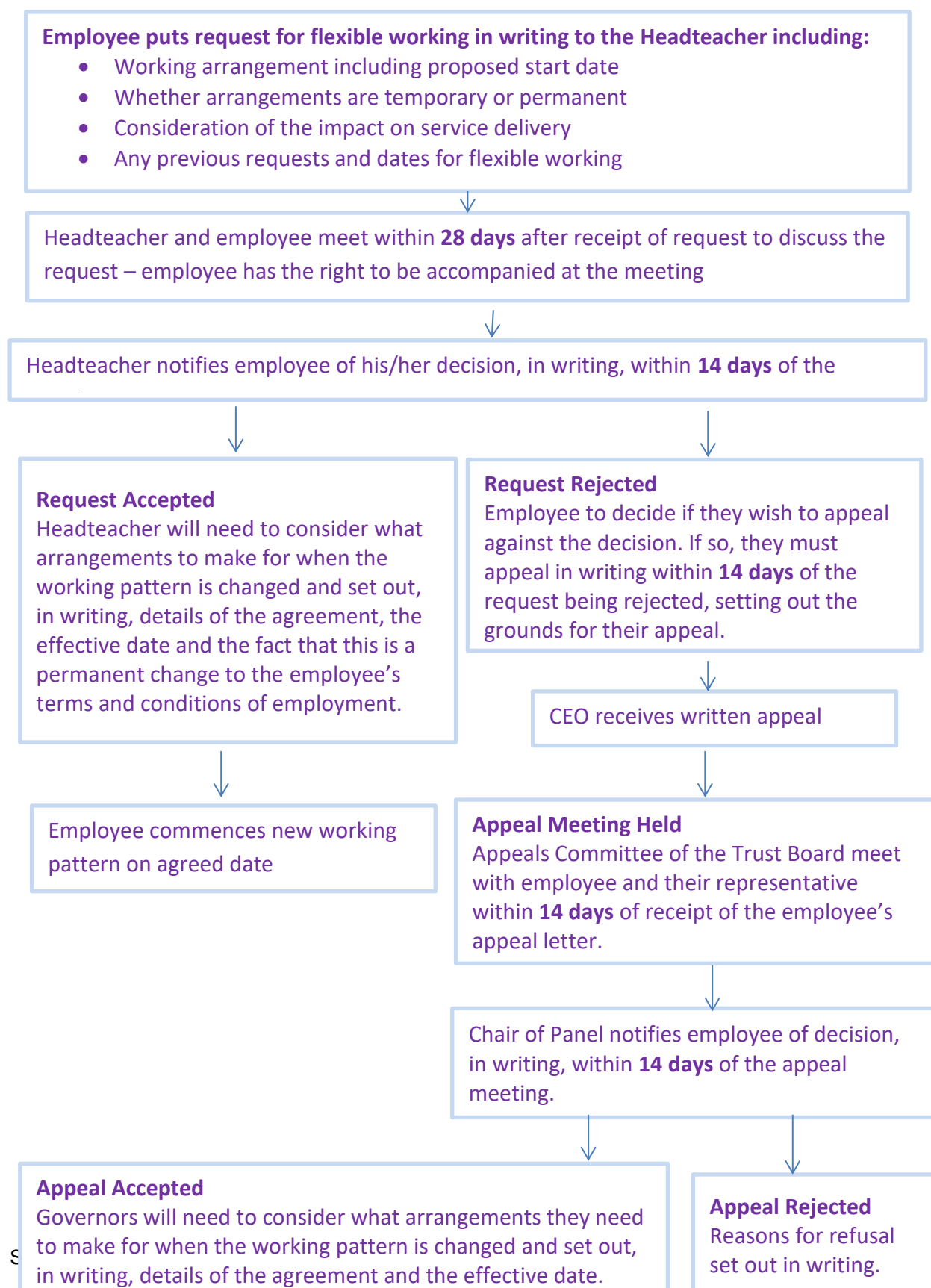
Signature: Date:

(Please forward this form, together with a copy of your written notification to the employee, to your HR provider)

Date received by HR:

Revised Contract Issued (date):

APPENDIX B
Procedure for dealing with requests for Flexible Working



APPENDIX C

Points to take into account when considering a request for Flexible Working

Headteachers (or the case of a Headteacher request) are encouraged to approach requests for flexible working with an open mind. With careful planning, flexible working can improve service delivery, employee motivation and commitment.

Upon receipt of a formal written request, including confirmation of the employee's preferential working pattern, the following points should be considered:

Points to consider	Yes	No	Comments
<ul style="list-style-type: none"> Check that the employee has properly thought through the implications of the requested changes. (For example an agreed reduction of hours would be accompanied by a proportionate reduction in pay) 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> Have you made the necessary initial enquiries as to how this request might be accommodated? (i.e. assess other team member's working patterns, future staffing plans, forthcoming projects/workload etc) 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> Have you identified any potential benefits of the proposed way of working? (Students benefiting from the input and motivation of two teachers; larger teaching staff that could be helpful for covering the various aspects of the curriculum; phased retirement through job sharing to retain skills and experienced teachers, succession planning etc) 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> Have you identified any potential negative impact of the proposed way of working? (e.g. additional costs, inability to organise work amongst existing staff; inability to recruit additional staff; a detrimental impact on quality, performance or the ability to meet customer demand; insufficient work for the periods the employee proposes to work; a planned structural change) 	<input type="checkbox"/>	<input type="checkbox"/>	

<ul style="list-style-type: none"> • Have you identified the critical and non-critical duties of the employee's post? 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • Can the employee fulfil the critical duties of the post under the flexible working arrangement proposed? • If not, can the critical work be redistributed, or can the employee's request be modified so that a compromise can be reached? 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • Can the non-critical duties be redistributed? 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • Can the resources be used to recruit a reduced hours worker in a different post? 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • Can the non-critical duties be ceased altogether, and the resources offered up as a budgetary saving? 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • Does your proposed solution impact on other employees? (Flexible working should not mean more work for everyone else) • If so, how? 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • Have you sought advice from Finance regarding any potential budgetary impacts? 	<input type="checkbox"/>	<input type="checkbox"/>	
<ul style="list-style-type: none"> • Are you satisfied that you have fully considered the individual's circumstances and their needs, including the impact the decision may have if the request is not approved, as well as the needs of the business? 	<input type="checkbox"/>	<input type="checkbox"/>	

[Employee to insert the commentary that is relevant and applicable to their request]

APPENDIX D

Letter Template Appeal Request

Date

Dear Chair of the Appeals Panel,

I am writing to formally appeal against the outcome of my flexible working request made on [date].

My reasons for appeal are as follows:

[Employee to set out the basis for their appeal. Including the reasons why they disagree with the outcome and any additional evidence to support the request.

The points to cover in letter could include.

- why you feel the decision was wrong or unfair – (for example share any evidence if the request was not handled reasonably (for example, the Trust did not follow the ACAS Code of Practice on Flexible Working Requests or its own policy)
- why you feel the decision should be looked at again (for example, there is information that was missed or new information that was not available when the decision was made)
- what you would like to happen next (for example, suggest any compromises you are willing to make)]

I request that an appeal hearing is convened to consider my point(s) of appeal.

Yours sincerely,

[Signature and Name of Employee]