



FLEXIBLE WORKING POLICY

September 2017

Flexible Working Policy

INTRODUCTION

Radius Trust is committed to providing outstanding educational opportunities for all our pupils and students. This is partly achieved by recruiting and retaining the highest quality staff across all Radius Trust settings. As such, we aim to support our staff to achieve a positive work-life balance.

Eligible employees have the right to request flexible working. Employers have a legal duty to give serious consideration to the request. Working flexibly can improve staff motivation and performance. It is expected that flexible working requests would be considered by an appropriate manager e.g. Senior Leadership Team member or Head of Service.

This document sets out the procedure for requesting flexible working arrangements.

FLEXIBLE WORKING

The term flexible working covers flexibility in terms of **time** (for example part time working) and **location** (for example working at another location).

To be eligible to make a statutory flexible working request a person must:

- be an employee – agency workers do not qualify;
- have been employed continuously by their current employer for at least 26 weeks on the date that they make their request;
- not have made another statutory request during the previous 12 months.

Employees can make one statutory application every 12 months. The 12 months runs from the date the first application was made.

How to apply for flexible working

Employees wishing to request flexible working should fill in the application form in Appendix A, setting out their desired working pattern and how this can be accommodated, and forward it to their line manager. The information given should be accepted as true unless there is a good reason to doubt it. The application must:

- state that it is being made under the statutory right to make a flexible working request;
- give details of the flexible working pattern applied for;
- explain what effect, if any, they think the proposed change may have on the pupils/students, school and how any such effect can be dealt with;
- state the date on which they want the change to start;
- state whether they have made any previous application and, if so, when.

The employee should allow plenty of time between the date of the application and the date they expect the flexible working arrangements to start. It could take up to 3 months. This is to allow time for their application to be considered and an assessment made of whether or not it can be accommodated.

Changes to contracts

Acceptance of a flexible working request may lead to permanent changes to the employee's contractual terms and conditions of employment. If an employee is concerned about this it could be agreed that they work flexibly for a trial period or that the change is agreed for a temporary period only.

Considering a request for flexible working

All statutory flexible working requests must be seriously considered with the aim of deciding whether Radius Trust can accommodate the requested work pattern.

Once a valid application has been received, line managers should acknowledge receipt of the application. It is good practice to talk to or arrange a meeting with the employee to discuss their application and gather further information. This meeting should be held in good time as any final decision and outcome of any appeal must be conveyed within 3 months.

Meetings do not need to be held face to face; it may be more convenient to talk over the telephone. If agreeing a request, this can be done simply on the basis of the application without the need to hold a meeting.

If a meeting is held, it is good practice to inform the employee of their right to be accompanied to the meeting by a work colleague or trade union representative. The time and place of the meeting should be convenient to both parties.

The employee has the right to be accompanied by a work colleague or trade union representative. The employee is responsible for arranging such attendance. The companion can address the meeting and confer with the employee during it, but may not answer questions on behalf of the employee. If the companion is unable to attend the meeting the employee must seek to rearrange the meeting, but it should take place within 7 days of the original meeting.

Both the employee and the companion must be paid for the time off from their normal working duties to attend the meeting. Where staff are on maternity, adoption or shared parental leave, consideration could be given to using a Keeping in Touch day for this purpose.

If the employee fails to attend the meeting they should explain their absence and ask for it to be rearranged. If the employee fails to attend the meeting more than once, without a reasonable explanation, the application can be treated as withdrawn.

If the application is incomplete the employee should be asked to resubmit it and be informed that it won't be considered until it is resubmitted. If the employee refuses to provide the information needed, the application can be treated as withdrawn and the employee will not be able to make another application for 12 months.

Reaching a decision on a flexible working request

The employee must be notified of the decision within 3 months of receipt of the application. If more time is needed to consider the request this must be agreed with the employee. If the working pattern cannot be agreed, agreement could still be reached by agreeing an alternative pattern with the employee. A trial period may also be agreed, with a review date.

All requests must be handled using fair and non-discriminatory criteria.

Requests must be considered in the order they are received. This means that the business context may change each time a request is considered and agreed; it may still be possible to grant each request received but managers are able to take into account any changes when considering subsequent requests. Managers will not make value judgements about requests; each one should be considered on its own merit, and in the order it is received.

As the employer Radius Trust must ensure that all requests are considered objectively and the employer can only refuse if there are business reasons for doing so. This is required by legislation.

The business reasons for consideration and therefore refusal are set out below:

- The burden of any additional cost is unacceptable to the organisation;
- An inability to reorganise work among existing staff;
- Inability to recruit additional staff;
- The employer considers the change will have a detrimental impact on quality;
- The employer considers the change would have a detrimental effect on the business' ability to meet customer demand;
- Detrimental impact on performance;
- There is insufficient work during the periods the employee proposes to work;
- Planned structural changes.

Managers should use the relevant section on the application form to consider these questions in relation to each request.

If managers have any questions about this section of the form, they should discuss them with HR.

In considering these reasons, managers must avoid inadvertently discriminating against particular employees because of their protected characteristics as set out in the Equality

Act 2010 where a request for flexible working may constitute a reasonable adjustment in the workplace. Please talk to HR for further advice.

There may be occasions where more time is needed to reach a decision than the formal statutory procedure allows. Any extension needs to be agreed in writing. The written record of the agreement to extend must:

- be dated;
- be sent to the employee;
- specify what period the extension relates to;
- specify the date on which the extension will end.

Agreeing to a request for flexible working

If the flexible working request is granted the employee should receive written confirmation. A letter agreeing to the flexible working request must be dated and must include:

- details of the new working pattern;
- the date on which the change will start;
- confirmation that the arrangement will result in a permanent change to the employee's terms and conditions of employment (unless agreed otherwise).

Trial periods for flexible working arrangements

Where it is not clear whether the proposed flexible working pattern will work in practice, a trial period could be considered. This could happen either:

- **before** the formal written application is submitted: where this is agreed, the formal procedure will still be available to the employee in the future; **or**
- **after** the formal written application has been received. Agreement would be reached with the employee to an extension to the time allowed for the decision to be made so that the trial period could take place before a final decision is reached. Where this is agreed the remainder of the formal procedure would still be available to the employee.

Temporary flexible working arrangements

If it is agreed with the employee that a flexible working arrangement resulting in a permanent change to their contract may not be the best solution, an informal temporary arrangement could be considered. This may be appropriate where, for example, the employee becomes the carer of a person with a terminal illness. Any such agreement reached should be put in writing.

Refusing a request for flexible working

If it is decided that a request for flexible working cannot be accommodated the employee must be informed in writing. The letter must be dated and include:

- the business reason/s for refusing the request
- an explanation of why the business reason/s apply in these circumstances

A request for flexible working can only be rejected on a limited number of set grounds as follows:

- planned structural changes;
- 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 amongst existing staff;
- a detrimental effect on ability to meet customer demand;
- lack of work during periods the employee proposes to work.

Written refusal of a flexible working request must include a clear explanation of the business reason/s underpinning the decision. If an employee understands why a business reason is relevant, they are more likely to accept the outcome and be satisfied that their request has been given serious consideration, even if it is not the outcome they wanted.

Treating an application as withdrawn

There are three circumstances where an employee's application can be treated as withdrawn:

- the employee unreasonably refuses to provide the information needed to consider the application;
- the employee fails to attend a meeting on two occasions to discuss their request, or a meeting to discuss an appeal, without reasonable cause. However, flexibility should be exercised where, on both occasions, the employee cannot attend due to unforeseen circumstances;
- the employee decides to withdraw the application. The employee should give written notification of this as soon as possible.

In all cases where an application is withdrawn the manager should confirm, in writing, to the applicant that this has happened and that the employee will not be able to make another application for 12 months.

Informal resolution/grievance/mediation

If there are problems with an application, efforts should be made to deal with these informally. For example, if a deadline has been missed it should be dealt with as quickly as possible to avoid the employee taking more formal action.

If an employee feels that the issue has not been resolved using informal methods they may use the grievance procedure if they wish.

If the matter cannot be resolved internally, use of a mediator could be considered.

RELATED POLICIES AND PROCEDURES

Equality & Diversity Policy
Family Friendly Policies and Procedures
Grievance Procedure

APPENDIX A: Flexible working application form

Note to the employee

You can use this form to make an application to request flexible working under the right provided in law to help eligible employees.

You should note that under the right it may take **up to 3 months** to consider a request before it can be implemented, possibly longer where difficulties arise. You should therefore ensure that you submit your application to your line manager no later than 3 months in advance of the date you wish the request to take effect unless there are exceptional circumstances.

It will help your line manager/Head/Principal to consider your request if you provide as much information as you can 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 line manager or Head/Principal (you might want to keep a copy for your own records). Your line manager/Head/Principal may agree the request or 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 line manager

This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications seriously. The employer has 3 months after the day you receive this application in which to either agree to the request (in conjunction with the Head/Principal) or arrange a meeting with your employee to discuss their request.

You should confirm receipt of this application by completing section 5.

1. Personal details

NAME:

JOB TITLE:

MANAGER:

NI NUMBER:

I would like to apply to work a flexible working pattern that is different from my current working pattern under my right provided under section 80F of the Employment Rights Act 1996. I confirm I meet each of the eligibility criteria as follows:

- I have worked continuously as an employee at Radius Trust for the last 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:

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. Date you would like this working pattern to commence from (please leave at least 3 months for consideration of your request):

3. Please describe how you think this change in your working pattern will affect your Head/Principal, line manager and colleagues:

4. Please detail how the effect on your Head/Principal, line manager and colleagues will be managed:

5. If you are applying to job share your role, please state why you think the role can be effective with 2 occupants and your proposal for working hours and overlap.

Signed.....

Name..... Date.....

NOW PASS THIS APPLICATION TO YOUR LINE MANAGER

5. Confirmation of receipt – Line Manager to complete and return to applicant, and keep a copy for use at the meeting and personal file.

Dear NAME

I confirm that I received your request to change your work pattern on DATE

I agree your request.*

OR

I shall be arranging a meeting to discuss your application with you. In the meantime, you might want to consider whether you would like a work colleague or trade union representative to accompany you to the meeting (you are responsible for arranging this).*

From: (name)

Signed.....Date.....

*delete as applicable

FOR LINE MANAGERS: IMPACT ASSESSMENT

It is good practice, when considering a flexible working request, to carry out an impact assessment below. Please complete all sections fully. Please discuss any concerns with HR and/or your Head/Principal as appropriate.

1. <i>To the best of your knowledge, are you aware of any planned structural changes proposed for this service in the foreseeable future? If yes, please outline the proposal in brief.</i>
2. <i>What are the financial implications of this employee's request? Please set out the cost implications for this change and any subsequent cover and revised working arrangements.</i>
3. <i>How would this request impact on the quality of service to our pupils/ students?</i>
4. <i>Will additional staff be required to achieve this request? If yes, please set out your proposed recruitment strategy and any previous issues recruiting to similar posts.</i>
5. <i>How would this pattern of work impact on the performance of the role and the wider team?</i>
6. <i>Are you able to reorganise work amongst existing staff to accommodate this request?</i> <i>a. If yes, please describe how.</i> <i>b. If no, please provide an explanation.</i>
7. <i>How would this change affect our ability to meet customer demand?</i>
8. <i>Does this proposed pattern of work optimise the working hours available e.g. will there be sufficient work during the working hours proposed?</i>
9. <i>Proposed date when changes to working patterns can be achieved without disruption to service. Please set out proposed dates for recruitment, reorganisation to workloads etc. Should the request be agreed on a temporary basis initially?</i>

Line Manager/Head/Principal's recommendation:

1. I recommend that the above flexible working request be agreed on the following grounds:

2. I recommend that the above flexible working request be refused on the following grounds:

PLEASE EMAIL THE FORM TO THE DESIGNATED MANAGER/HEAD/PRINCIPAL FOR FINAL APPROVAL, cc. HR.

PLEASE NOTE THIS ENTIRE PROCESS, INCLUDING MEETING WITH THE EMPLOYEE, MUST BE COMPLETED WITHIN 3 MONTHS OF RECEIVING THE REQUEST TO REMAIN WITHIN THE LAW.