

Flexible Working Policy

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In line with the Romero Catholic Academy Trust, the Local Governing Board is responsible for monitoring and evaluating the policies of the academy in line with the Trust policies and is therefore responsible for the decision making required under the Flexible Working Policy.

1. INTRODUCTION

- 1.1. Local Governing Bodies have a duty to consider flexible working requests seriously and are able to refuse only where there is a clear “business reason”. If a change is agreed, it is a permanent variation of contract (unless a trial period of the new working arrangements has been agreed) and there is no right for the employee to revert to the former arrangement.
- 1.2. There is, however, other legislation that needs to be taken into account when considering requests e.g. the Equality Act. If an employee feels that an unsuccessful request also breaches other legislation, it will be possible for both matters to be heard jointly at an Employment Tribunal. In such circumstances, The Tribunal will examine not only the procedure that has been followed, but also the “business reason” put forward by the school and has the power to award compensation under the provisions of that other legislation, on which there is no upper limit.

2. WHO DOES THIS RIGHT APPLY TO?

- 2.1. All employees have a right to make a statutory flexible working request from the first day of employment.
- 2.2. Employees can make 2 flexible working requests in a 12-month period.
- 2.3. An application will be taken as being made on the day that it is received.

3. WHAT CAN BE REQUESTED?

- 3.1. Changes to:
 - The number of hours the employee is required to work.
 - The times an employee is required to work.
 - Where the employee is required to work at home or the normal place of work.
 - The days an employee is required to work
- 3.2. This also covers working patterns such as annualised hours, compressed hours, flexitime, home working, job-sharing, shift working, staggered hours and term-time working.

4. HOW SHOULD THE EMPLOYEE MAKE AN APPLICATION?

- 4.1. The employee must apply in writing using the application form set out at Annex A and
 - Clearly indicate if the application is in relation to the Equality Act, e.g. as a reasonable adjustment relating to a disability
 - State whether a previous application has been made and if so when;
 - Set out the change applied for, e.g. a new working pattern and, the date they wish it to become effective;
 - Be signed and dated.

- 4.2. If an application does not contain all of the required information, the line manager will explain to the employee what additional or amended information they need to provide and ask the employee to resubmit the request.

5. PROCEDURE FOR CONSIDERING APPLICATIONS

5.1. The initial request:

- If the Headteacher agrees with the proposal in full, it should be put before the relevant committee of the Local Governing Body for approval, following which the employee should be notified in writing that the variation has been agreed to and the date from which it will take effect (within 2 months from the date the flexible working request was received).
- If the Headteacher does not agree with the proposal they must meet with the employee without unreasonable delay to discuss the request. This provides an opportunity to discuss any problems and consider alternatives.
- The employee will be given advance notice of the time, date and place of the meeting. If the initial date is problematic, then one further date will be proposed. If a face to face meeting is difficult to arrange then, if agreed by the employee and Headteacher, the meeting may be held online or over the telephone.
- At the meeting the employee may, if they wish, be accompanied by a workplace colleague or a trade union representative.
- A member of the Trust HR Team may also attend the meeting.
- If the employee fails to attend a meeting and then fails to attend a rearranged meeting without good reason, their application will be deemed to have been withdrawn.
- The Headteacher must inform the employee of their decision.
- If the proposal is agreed, it should be put before the relevant committee of the Local Body for approval, following which the employee should be notified in writing that the variation has been agreed to and the date from which it will take effect.
- If the Headteacher does not support the proposal, they must write to the employee setting out the grounds of refusal and why they apply in the circumstances and setting out the appeals procedure.
- 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 be granted a similar change to their working pattern.
- The request may be granted in full, in part or refused. The organisation may propose a modified version of the request, the request may be granted on a temporary basis, or the employee may be asked to try the flexible working arrangement for a trial period. If the request is agreed, then the employee will be sent a confirmation letter which will include details of the new arrangements. Page 3 of 6 The employee should contact the Headteacher without unreasonable delay if they wish to discuss the new arrangements further or have any concerns.
- The timeframe for considering a flexible working request, consulting with the employee and responding to the request is 2 months from the date it is submitted unless an extension is agreed – this includes time for any appeal submitted. If an extension is agreed, the employer should confirm this in writing to the employee.

6. THE APPEAL

- The employee has the right, after the date of notification of the Headteacher's decision to appeal in writing, to the Trust Human Resources Team, setting out the grounds of appeal.
- Upon receipt of the written notification, the Trust Human Resources Team will without unreasonable delay arrange for a meeting of the Grievance Committee, all interested parties will receive a copy of all supporting documentation.
- The employee will then be informed of the outcome to their appeal without unreasonable delay.

7. PROCEDURE AT THE APPEAL HEARING

- The employee and the Headteacher to be present at all times, except when any matter falls solely for the Committee to consider or adjudicate on.
- The Chair will allow the employee and the Headteacher, in that order, to make submissions to the meeting and for questioning to occur.
- The introduction of relevant documentary evidence will be allowed.
- The employee and the Headteacher will, in that order, have the right to call witnesses, who will be available to be questioned by both sides and by the Committee.
- The Chair will ensure that the members of the Committee may ask questions of the employee and the Headteacher and any witnesses.
- Witnesses will only remain at the hearing for so long as they are giving evidence or being questioned.
- The employee and the Headteacher will, in that order, have the right to make a final or closing statement to the Committee.
- All other parties will then withdraw and the Committee will consider the case and come to a decision.
- If, for any reason, the Committee wishes to ask further questions or clarification is required, the Chair will reconvene the full hearing.
- When the Committee has reached a decision, the employee and the Headteacher will be asked to return to the meeting and the Trust Human Resources Representative will communicate the decision.
- The Trust Human Resources Representative will document the proceedings of the hearing and will confirm the decision in writing to the member of staff without unreasonable delay.
- If the Committee decides to accept the request, the employee should be informed in writing of the variation that has been agreed to and the date from which it is to take effect.
- If the Committee decides to refuse the request, the employee must be informed in writing of the grounds for refusal, explaining why they apply.
- If the employee fails to attend the appeal meeting and then fails to attend a rearranged meeting without good reason, their application will be deemed to have been withdrawn.

8. WHAT IF TIME LIMITS CANNOT BE MET?

- 8.1. There may be a number of reasons why the time limits specified above are too short and an extension may be required. For example, more time may be needed to explore an alternative working pattern. Time limits can be extended where the employee and the Headteacher/Committee agree. A written record of the agreement must be made which states

which period the extension relates to and the date the extension is to end. This must be dated and sent to the employee. This is to prevent a dispute arising as to whether the “employer” has complied with the time limits required or not.

- 8.2. Time limits will be automatically extended where the Headteacher who would ordinarily consider the application is absent when the application is received. The 2-month period begins when the Headteacher returns to work or 2 months after the application is made, whichever is the sooner. The process should be completed, including appeals, within 2 months of the application being made, unless a time limit extension has been agreed.

9. CAN A TRIAL PERIOD BE USED TO TEST WHETHER OR NOT THE PROPOSED ARRANGEMENT WILL WORK?

- 9.1. A trial period allows both the school and the employee 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.
- 9.2. Before embarking on a trial period, the parties should agree to extend the statutory time limit under the flexible working procedure (unless the trial period will be completed within the two-month decision period).
- 9.3. In addition, the Headteacher and employee should document the new working pattern, making clear that it is only a temporary variation to the terms of the employee's contract. The written agreement should state the start and end date of the trial period (with the school reserving the right to cut it short or lengthen it as necessary) and the changes that have been agreed. It should record that the school reserves the right, at the end of the agreed trial period, to require the employee to revert to his or her previous working arrangement. The document should be signed by both parties.

10. WHAT ARE THE GROUNDS FOR REFUSING A REQUEST?

- 10.1. If the request is rejected then the member of staff must be informed in writing, setting out the grounds for refusal. The only valid grounds for rejecting a request are set out in the Employment Rights Act 1996 and are as follows:
- The burden of additional costs
 - Detrimental effect on ability to meet client 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 member of staff proposes to work
 - Planned structural changes
- 10.2. The member of staff must also be provided with a sufficient explanation as to why the reason applies in the circumstances.

11. CAN THE MEMBER OF STAFF BE REPRESENTED OR ACCOMPANIED?

- 11.1. A member of staff has the right to be accompanied by a workplace colleague or a trade union representative at any meeting. The companion is not permitted to answer questions on their

behalf. You must notify your Headteacher of their identity at least the working day before the meeting.

- 11.2. If the chosen companion is unavailable at the time proposed for a meeting, then the meeting must be postponed to a time that is convenient for the Headteacher/Committee and within five working days beginning with the day after the date initially proposed.

12. CAN AN APPLICATION BE WITHDRAWN?

- 12.1. If the member of staff verbally withdraws their application then the Headteacher should write to the member of staff to confirm this.
- 12.2. Where a member of staff fails to meet their responsibilities an application may be treated as withdrawn. This will apply when a member of staff fails to attend, without reasonable cause, a meeting more than once or unreasonably refuses to provide the information required to assess whether the contract variation can be agreed to. In these circumstances, the Headteacher should write to the member of staff to confirm that the application has been withdrawn.