

# Flexible Working Requests Policy and Procedure

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<b>Last Reviewed</b>	<b>September 2020</b>
<b>Approved by/when</b>	<b>Trust Board October 2022</b>
<b>To be reviewed</b>	<b>October 2024</b>

<b>Document Control</b>	
Title	Flexible Working Requests Policy and Procedure
Supersedes	Flexible working Policy September 2020
Amendments	Referenced and explained the definition of a “School Working Day” for School Support Staff and School Teaching Staff within the “Scope and Definitions” Section.(Page 4)
Related policies/guidance	Maternity Policy Paternity Policy Adoption policy Equality policy

Under the public sector equality duty, all schools/academies must have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010; to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it and to foster good relations across all protected characteristics. This means schools/academies must take into account equality considerations when policies are being developed, adopted and implemented.

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# 1. Introduction

- 1.1 This flexible working requests policy and procedure (referred to as a procedure only hereafter) is recommended for adoption by all maintained schools including community, voluntary controlled, community special, maintained nursery, foundation, foundation special and voluntary aided schools.
- 1.2 This procedure is also recommended for adoption by academies and free schools modified as appropriate and taking into account the particular circumstances of the relevant academy or free school. It will be made clear in this procedure where a provision is relevant to maintained schools only.
- 1.3 This procedure accords with education and employment legislation including the provisions relating to the statutory right to request flexible working in the Employment Rights Act 1996, the changes introduced by Part 9 of the Children and Families Act 2014 (ss 131-133) and the Flexible Working Regulations 2014. It also takes into account the provisions of the ACAS Code of Practice "handling in a reasonable manner requests to work flexibly" and the related ACAS guidance.
- 1.4 This procedure sets out the steps employees need to take should they wish to request flexible working. It also outlines the process the school will follow in considering such requests and the grounds upon which a request may be refused. It is recommended that trust take advice from the school's HR or other professional adviser when dealing with flexible working requests.

## 2. Scope and Definitions

- 2.1 This procedure applies to all qualifying employees including Academy Leads and members of the central leadership team. It does not apply to self-employed staff, contractors, external consultants, agency staff and governors.
- 2.2 Under this procedure a qualifying employee is an employee who has:-
  - at least 26 weeks' continuous service with the school at the date his/her flexible working application is made, and
  - has not made another application to work flexibly under the right to make a request during the past 12 months.
- 2.3 For the avoidance of doubt, in this policy any reference to a "school working day" will have the following meaning: -
  - (a) School Support Staff: -any day during an academic year when a school is normally open for educational purposes or when staff are in attendance for training purposes, and
    - i. in the case of staff contracted to work during term time only, excluding any day which falls on a Bank Holiday or within school holiday periods, and
    - ii. in the case of staff contracted to work all year round, excluding any day which falls on a Bank Holiday but including any day which fall within school holiday periods.
  - (b) School Teaching Staff: - any day during an academic year when a school is normally open for educational purposes or when staff are in attendance for training purposes but excluding any day which falls on a Bank Holiday or within school holiday periods

### 3.Principles

- 3.1 The trust is committed to promoting flexible working in the context of achieving the aim of providing a high quality teaching and learning environment for pupils and also developing working practices and policies that support work-life balance for employees. The trust recognises that flexible working can raise staff morale, reduce absenteeism and improve productivity and retention of experienced and skilled employees.
- 3.2 The trust will respond constructively and sensitively to all requests for flexible working arrangements.
- 3.3 Whilst employment law provides the right for eligible employees to make a request for flexible working, the law does not provide an automatic right to such working. The trust must however consider all requests in a reasonable manner and within a reasonable period of time.
- 3.4 All requests for flexible working, including any appeal, must be dealt with within an overall period of three months from the date the flexible working application is received unless this period is extended by the mutual agreement of the parties. Any agreement to extend the period of time for consideration of a flexible working request should be confirmed in writing and should be signed by the school and the employee.
- 3.5 The trust's ability to approve flexible working requests will vary according to the nature of the employee's role, the responsibilities of the post, the potential impact of the working arrangement on the pupils and the trust's business or operational needs at the time the flexible working application is received.
- 3.6 At any meeting relating to an employee's flexible working request (including an appeal meeting), he/she is entitled to be accompanied by a companion who will be either a work colleague, a person employed by a trade union or a trade union representative who has been certified in writing by the union as having experience of/ having been trained in acting as a companion. Companions can address a meeting and confer with the employee during a meeting, but are not allowed to answer questions on an employee's behalf. Employees should be informed of their right to be accompanied prior to any meeting but must make their own arrangements with regard to their chosen companion.
- 3.7 If a request for flexible working is refused, the refusal must be based on one or more of the eight business grounds prescribed in employment law and which are detailed in section 10 of this procedure.
- 3.8 All employees who apply for or who undertake flexible working, will have equality of opportunity at work and will not be subjected to any detriment as a result of making a flexible working application.
- 3.9 The trust will be mindful of its obligations and duties under the Equality Act 2010 and will be mindful of the protected characteristics in the Equality Act (i.e. age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership) in the application of this procedure and when considering flexible working requests.

### 4.Consideration of flexible working requests

- 4.1 Responsibility for consideration of flexible working requests will fall to the Academy Lead or to a member of the trust's central leadership team. Where the nominated manager has responsibility for consideration of a flexible working request, references in this procedure and the attached appendices to the Academy Lead, will be deemed to be references to the nominated manager.

- 4.2 Where the request for flexible working is made by the Academy Lead, responsibility for consideration of the request will fall to the chair of trustee's and in these circumstances, references in this procedure and the attached appendices to the Academy Lead, will be deemed to be references to the chair of governors.

## 5. Flexible working Options

- 5.1 Eligible employees can request a wide range of changes to their working arrangements and practices including changes to their working hours and changes to the times when they are required to work. Examples of flexible working options are set out at **Appendix A** to this procedure. Not all of these options may be appropriate in a school environment however and some forms of flexible working may not be suitable for certain roles in a school depending upon the duties and responsibilities associated with the role and the impact of the form of flexible working requested on pupils, colleagues and on the trust as a whole.
- 5.2 Where a change in an employee's working arrangement involves a reduction in the number of hours worked, the employee should be aware that this will entail a pro-rata reduction in his/her salary.
- 5.3 Any changes which are agreed to an employee's terms and conditions of employment will be permanent unless otherwise agreed.
- 5.4 If an employee requests a temporary change to his/her terms and conditions of employment, the Academy Lead may agree to this subject to the employee reverting to his/her original terms and conditions of employment after a specified period of time. The employee will not have a statutory right to make a further application for flexible working for a period of 12 months from the date his/her previous application was made.
- 5.5 All agreed changes to an employee's terms and conditions of employment (whether permanent or temporary), including the date when the change will come into effect, must be confirmed in writing by the trust to the employee as soon as possible.

## 6. Making a formal flexible working request

- 6.1 All flexible working applications must be **in writing** and must be **dated**. The written application must be submitted to the Academy Lead.
- 6.2 A pro-forma which is recommended for use by employees wishing to make a flexible working request is attached to this procedure at **Appendix B**. If an employee does not wish to use the attached pro forma, his/her written and dated flexible working application must include the following information:-
- A statement that it is a statutory request for flexible working;
  - Confirmation that he/she has at least 26 weeks' continuous service with the school;
  - A statement confirming whether a previous application for flexible working has been made and if so, the date of that application;
  - The change(s) to the working conditions he/she is seeking;
  - When he/she would like the change(s) to his/her terms and conditions to come into effect;
  - What effect he/she thinks the requested change(s) would have on the trust
  - How, in his/her opinion, the trust may be able to deal with the proposed change(s).
- 6.3 Employees should apply well in advance of the proposed effective date for the change to give the trust time to consider the flexible working request. Employees should not make any

arrangements which are dependent upon their request being approved until they receive notification about whether their application has been accepted.

6.4 Applications will be considered to have been made on the date they are received by the Academy Lead. An application will normally be deemed to have been received, (unless the contrary is proven), on the following date;-

- if sent by post - on the day on which the application would have been delivered in the ordinary course of post,
- if delivered personally - on the day of delivery,
- if sent by electronic transmission - on the day of the transmission.

The Academy Lead will normally acknowledge receipt of a request to confirm the date the application is deemed to have been made.

6.5 If employees do not use the pro form attached to this procedure and fail to provide all the required information in their request, they will be asked to resubmit their application. A flexible working request will not be considered by the Academy Lead until it contains all the required information.

6.6 Employees are not required to state the reasons for their flexible working request but they may choose to do so if they feel this will support their application. Employees should however, state if they are making their request in relation to the Equality Act 2010, for example as a reasonable adjustment for a disability.

## 7. Discussing the flexible working request

7.1 Once a written request is received, the Academy Lead must consider it. The Academy Lead may be prepared to accept the employee's flexible working request without a meeting to discuss his/her request and in these circumstances, the Academy Lead should notify the employee of the decision in writing as soon as possible (see section 9). Academy Leads will however normally meet with the employee in any event in order to discuss the arrangements that need to be put in place for when the employee's working pattern is changed and to discuss how and when the agreed changes might best be implemented.

7.2 The Academy Lead will normally arrange a meeting to discuss the flexible working request with the employee in private as soon as possible following receipt of his/her application. Where possible this will be within **20 school working days** of receiving the employee's flexible working application. There is no requirement that the discussion should be a face to face meeting; it could be held on the telephone or in some other way provided both parties agree.

7.3 The discussion meeting should take place on a date and at a time and place which is convenient to both parties. The employee may be accompanied by his/her companion/trade union representative. Sufficient notice of the meeting should be given to the employee so that he/she can make arrangements for the attendance of his/her chosen companion. The Academy Lead may be supported by the school's HR or other professional adviser.

7.4 Reasonable adjustments will be made to the time, date and location of the meeting where required to assist an employee or his/her companion with a disability. If there are any language issues affecting an employee or his/her companion these will be reasonably addressed.

7.5 The discussion will be an opportunity for both parties to establish exactly what changes are being sought by the employee, to consider the impact of the proposed changes on the trust, its pupils and on other members of staff and to discuss how the changes might benefit both the employee and the trust. The employee will also be able to explain how he/she considers

the arrangements will benefit his/her work/life responsibilities. If the requested working arrangement cannot be accommodated, the discussion will be an opportunity to see if an alternative working arrangement may be appropriate or whether a trial period is appropriate (see section 8 below).

- 7.6 The trust will consider the application and establish whether it is possible to accommodate the changes to the working arrangements sought. The trust will consider the benefits of the requested changes against any adverse impact on the trust of implementing the changes.
- 7.7 If an employee does not attend the meeting arranged to discuss his/her flexible working request then another date and time for the meeting will be arranged. If the employee does not attend the rearranged meeting, the trust should try to establish the reasons for the employee's non-attendance and if the employee does not have a reasonable explanation, the school may consider the employee's application for flexible working as withdrawn (see section 13 below).

## 8. Trial Periods

- 8.1 If the Academy Lead is unsure about the potential impact of the employee's proposed flexible working arrangements on the quality or delivery of teaching and learning at the academy and/or is unsure, from an operational perspective, whether the proposed arrangement is workable and/or sustainable for the trust, rather than reject the request, and in order to better assess the impact of the proposed change on the trust, the Academy Lead **may** consider it appropriate to agree to a trial period.
- 8.2 If a trial period is agreed by the Academy Lead, the Academy Lead will write to the employee to confirm the terms of the trial period including the details of review dates to discuss the arrangements. At the end of the trial period, the Academy Lead will meet with the employee to discuss the position and to confirm his/her decision in relation to the employee's flexible working application. See sections 9 and 10 below).
- 8.3 The length of any trial period will be at the Academy Lead discretion but will normally be for no more than one academic term. Where a trial period is agreed, bearing in mind that the whole process must be completed within three months from the date the flexible working application is received, it will usually be necessary for the parties to agree in writing to an extension to the overall period for consideration of the employee's flexible working request.

## 9. Accepting a request

- 9.1 If an employee's request is accepted, or accepted with modifications, the Academy Lead will notify the employee of his/her decision in writing as soon as possible.
- 9.2 The Academy Lead will confirm the following details in writing to the employee:-
  - the details of the new working arrangements,
  - any changes to the employee's terms and conditions of employment, and
  - the start date from which the changes will take effect.

The Academy Lead written notification to the employee should be dated.

- 9.3 The Academy Lead and the employee should discuss the arrangements that need to be put in place for when the employee's working pattern is changed and discuss how and when the agreed changes might best be implemented.
- 9.4 The Academy Lead will confirm the agreed changes to the trust's payroll provider and to any other relevant service provider to the school as appropriate.



## 10. Declining a request.

10.1 There will be circumstances where, due to the trust's business and operational needs and requirements, the Academy Lead will be unable to agree to an employee's request for flexible working.

10.2 An application can be refused only on the following business ground(s):-

- the burden of additional costs,
- detrimental effect on ability to meet customer demand,
- inability to reorganise work amongst 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 structural changes.

10.3 If the application is refused, the Academy Lead will write to the employee as soon as possible following the flexible working discussion meeting:-

- giving the business ground(s) for refusing the application;
- explaining why the business ground(s) apply in the particular case;
- setting out the right to appeal.

## 11. Dealing with multiple requests

### /prioritising competing requests

11.1 Where the trust receives a flexible working request from more than one employee it may be unable to accommodate every request due to the impact this would have on the trust. In these circumstances, the following groups will have priority over other employees seeking flexible working arrangements:-

- An employee who has or expects to have the responsibility for the upbringing of a child (including an adopted child) who is under 17 or under 18 if the child is disabled.
- An employee who is a carer of an adult in need of care (e.g. a spouse, partner, civil partner, near relative or a person who is living at the same address as the employee).
- An employee whose flexible working request is made in relation to a protected characteristic as detailed in the Equality Act 2010 and where the act of refusing the employee's request could potentially amount to direct or indirect discrimination or a failure to make a reasonable adjustment.

11.2 For all flexible working requests by employees who do not fall into one of the priority groups as detailed in section 11.1 above, the Academy Lead is not required to make a value judgement about the most deserving request. Requests should be considered in the order they are received and on their own particular merits looking at the trust's business and operational needs at the time the request is received.

11.3 Employees should be aware that the fact that a colleague's similar request for flexible working has been previously granted will not have any bearing on the outcome of their own flexible working request. The trust should remember that the business context will have changed when

considering second and subsequent requests for flexible working and that this can be taken into account when considering those requests as against the business grounds detailed in section 10.2 above.

- 11.4 If the Academy Lead is not able to grant a flexible working request because a number of other employees are already working flexibly and to grant a further request would adversely impact upon the trust, the Academy Lead may speak to existing employees who already work flexibly and ask if any of them would be prepared to change their working pattern to allow a new flexible working request to be accommodated.
- 11.5 When dealing with multiple requests, it will be reasonable for the Academy Lead to enquire into the reasons for an employee's flexible working request if these have not been disclosed already. This is so the Academy Lead can assess whether an employee falls into one of the priority groups detailed above.
- 11.6 Where multiple requests are received and none fall into the priority groups (or all the requests fall into the priority groups), if the Academy Lead is unable to agree to all the requests he/she may wish to have a discussion meeting with the employees concerned to see if there is any room for adjustment or compromise before coming to a decision. If this is not an option or compromise is not possible and the Academy Lead is unable to distinguish between requests, the Academy Lead may decide to randomly select which requests can be granted.

## 12. Appeals

- 12.1 If an employee believes that his/her request has not been properly considered or there is new information available that was not available at the time the original decision was made, he/she can appeal the flexible working decision by submitting an appeal to the Academy Lead within **10 school working days** of receiving the written decision in relation to his/her flexible working request. The appeal must be in writing and dated and must set out the full grounds for the employee's appeal.
- 12.2 The trust will then arrange a meeting to discuss the appeal as soon as possible bearing in mind the whole request process (including the appeal) must be completed within three months of the flexible working application being received unless otherwise agreed in writing by both parties.
- 12.3 The meeting to discuss the appeal does not have to be a face to face meeting and if the trust and the employee agree, this can be done by telephone or by some other method. Where an appeal discussion meeting is arranged, this will be held on a date, at a time and at a place which is convenient to both parties.
- 12.4 Where the original flexible working decision was made by the Academy Lead, the appeal will be considered by a panel of two governors and 1 trustee who have had no prior involvement in the consideration of the matter. Where the original flexible working decision was made by the nominated manager, the Academy Lead may consider the employee's appeal. The panel of governors/trustee's or Academy Lead (as the case may be), may be supported by an HR or other professional adviser who may attend the appeal discussion meeting in an advisory capacity and may keep a formal record of the meeting.
- 12.5 The employee has the right to be accompanied at the appeal discussion meeting by his/her chosen companion/trade union representative who can make representations on the employee's behalf but cannot answer questions of the employee's behalf. The employee will be advised of his/her right to be accompanied in advance of the meeting.

12.6 Following the appeal discussion meeting, the employee will be advised of the outcome of the appeal in writing within **10 school working days**.

12.7 If the employee's **appeal is successful**, the written confirmation of the outcome will:-

- be dated,
- include a description of the new working arrangements and confirm whether the arrangement is temporary or permanent,
- state the date from which the new working arrangement will come into effect.

12.8 If the employee's **appeal is not successful**, the written confirmation of the outcome will:-

- be dated,
- confirm the reason for the decision (as related to the grounds of the employee's appeal),
- provide an explanation as to why the business grounds for refusal apply in the particular case.

12.9 There may be circumstances where at or following the appeal discussion meeting, the panel of governors/trustee's (or the Academy Lead), considers it appropriate that a trial period should take place before a final decision is made in relation to the employee's appeal. **This will not include circumstances where there has already been a trial period.** If a trial period is considered appropriate, the terms relating to the trial period (including provisions relating to review of the arrangement) will be confirmed by the panel of governors/trustee's (or Academy Lead) to the employee. The terms must be fully agreed with the employee and the agreement confirmed in writing by both parties. Bearing in mind that the whole process must be completed within three months from the date the flexible working application is received, it will usually be necessary for the parties also to agree in writing to an extension to the overall period for consideration of the employee's flexible working request. At the end of the trial period, the panel of governors/trustee's or a nominated governor/trustee from the panel (or the Academy Lead) will arrange to meet with the employee to discuss the position and to confirm the final decision in relation to the employee's appeal. The provisions of section 12.7 or 12.8 above will then apply.

12.10 The appeal decision is final. There is no further right of appeal.

## 13. Withdrawal of applications

13.1 An employee's flexible working application may be treated as having been withdrawn where the employee has indicated either orally or in writing that he/she is withdrawing his/her flexible working application.

13.2 An employee's flexible working application may also be considered to have been withdrawn if the employee fails, without good reason, to attend two consecutive meetings arranged by the trust:-

- to discuss the employee's flexible working application, or
  - to discuss the employee's appeal against the rejection of his/her flexible working application, and
- the trust has notified the employee that it has decided to treat that conduct as a withdrawal of the application.

*N/B A flowchart which summarises the right to request flexible working procedure is attached at **Appendix C.***

## Appendix A - Examples of flexible working options

- **Part-time working:** this is when employees are contracted to work anything less than normal full-time working hours.
- **Term-time working:** a pattern of work where the employee works and is paid on a pro rata basis according to the school holiday pattern, usually 38 or 39 weeks of the academic year. Employees work as normal during term time and during school holidays they do not go into work but are still employed during those periods.
- **Job-sharing:** a form of part-time working where two people work on a part time basis to share the responsibility of a full time post.
- **Flexi time:** a working pattern whereby employees work a standard core time but may vary their start and finish times each day within agreed limits.
- **Compressed hours:** this allows employees to work their total number of contracted weekly hours in fewer than the usual number of working days each week by working longer individual days. For example, sometimes a five day week is compressed into four days.
- **Annualised hours:** a system of working whereby employees average out working time across the year so they work a set number of hours per year rather than per week. Normally they are split into core hours that are worked each week and unallocated hours that can be used for peaks in demand.
- **Home working:** employees work all or part of their contracted hours from home.

# Appendix B - Request for flexible working pro forma

This pro forma is recommended as an alternative to an employee’s letter of application for flexible working.

**Should any of the information supplied by an employee on this pro forma prove to be deliberately false or misleading, disciplinary action may be initiated against the employee which could ultimately lead to his/her dismissal**

<b>Name:</b>	
<b>Job Title:</b>	
<b>Department:</b>	
<b>Date form submitted:</b>	
<b>Previous applications for flexible working</b>	
Have you submitted a previous request for flexible working? (Please circle as appropriate and if you have answered yes, please answer the next question.)	Yes                      No
When did you submit your last request for flexible working?	
<b>Eligibility criteria.</b>	
Please confirm that you have at least 26 weeks’ continuous service with the school (please circle as appropriate)	Yes                      No
<b>Note - If you do not meet the above criteria then you do not qualify to make a request to work flexibly under the statutory procedure.</b>	

**Current working arrangements and working arrangements you are seeking.**

1. What is your current working arrangement?

2. What is the new working arrangement that you are requesting?

3. Are you seeking a permanent or a temporary change to your terms and conditions of employment? If you are seeking a temporary change please give further details

4. When would you like the above change(s) to your terms and conditions of employment to come into effect?

5. What effect do you think the requested changes will have on the school?

6. In your opinion, how may the school be able to deal with your proposed changes?

**Reasons for your request**

7. What is the reason for your request?

***Note - You do not have to disclose your reasons but you may choose to do so if you believe this will assist your application and in particular, if your request is made in relation to the Equality Act 2010. In circumstances where the school has received multiple applications for flexible working, you may be asked to disclose your reasons in order that the school can ascertain whether you fall into a priority group as detailed in the flexible working requests procedure.***

Please return this pro-forma to the Academy Lead as soon as possible. Please also retain a copy of this pro forma for your own records.

Once you have submitted this application for flexible working, your request will be considered by the Academy Lead. You will normally be invited to attend a discussion meeting with the Academy Lead which will, where possible, take place within 20 school working days of your application being received. You will be advised of the date, time and location of the meeting as soon as possible.

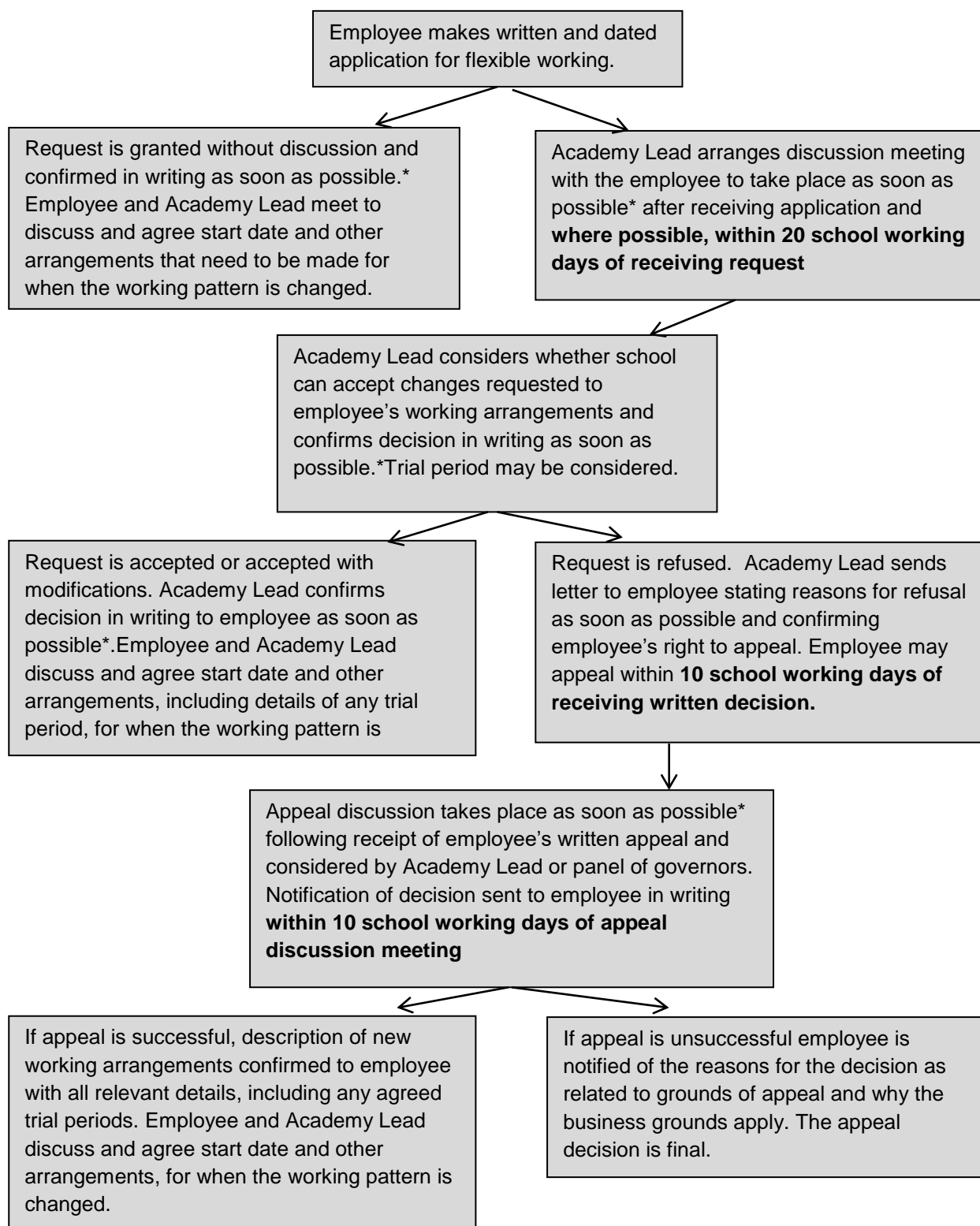
It will help the school to deal with your application if you provide as much information as you can on this form. If all the questions are not answered, your application may not be valid.

**Signed:**

**Date:**



## Appendix C - Flowchart of right to request procedure



**\* The whole process must take no longer than three months unless otherwise agreed by both parties in writing.**