



## **TrustEd CSAT Alliance Flexible Working Policy**

*This policy has been consulted through the Trust Forum Group, which includes Support Staff and Teacher's representation for all schools within our Trust.*

**FREQUENCY OF REVIEW: Every two years**

**COMMITTEE: Personnel Committee**

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**AUTHOR: Shropshire HR**

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### **Adopted by the Board of TrustEd CSAT Alliance**

Signed \_\_\_\_\_  
Chair of Trust Board

Dated \_\_\_\_\_

Signed \_\_\_\_\_  
Chief Education Officer (CEO)

Dated \_\_\_\_\_

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# TrustEd CSAT Alliance Flexible Working Policy

## 1. Introduction

This procedure allows the Trust to deal with applications for Flexible Working.

The right to request flexible working was first introduced in 2003 for parents of young and disabled children, and the scope of the law has been extended since that time. A number of amendments to part 9 of the Children and Families Act 2014 extend the law further in that, with effect from 30<sup>th</sup> June 2014, all employees have a statutory right to request flexible working, provided they have continuous service of 26 weeks or more with their employer. This right allows employees to request a variation in their contract so that they can work more flexibly. It does not provide an automatic right to work flexibly as there will always be circumstances when the employer is unable to accommodate the desired work pattern. The right is designed to meet the needs of both employees and employers.

The law requires all requests to be dealt with within a 'reasonable manner' and within a period of 3 months from first receipt to notification of the decision on appeal. The timescales set out in this policy enable this requirement to be met. The time limit may be extended if both the employer and employee agree to this. Employees should be aware that they are only eligible to make a statutory request for flexible working if they have not made a request to work flexibly within the past 12 calendar months (additional requests can be submitted if they relate to a statutory entitlement e.g. The Equality Act right to request reasonable adjustments).

## 2. Application and Scope

This procedure applies to all staff employed by the Trust. It does not apply to agency workers, consultants or self-employed contractors. Schools within the Trust should refer to the scheme of delegation regarding the role of their Local Governing Body (LGB) and the role of the Trust Board if assistance is required in making a decision in accordance with Section 8 of this policy. Reference to 'Headteacher' throughout this procedure may also include the Executive Headteacher or Chief Education Officer (CEO) of the Trust.

The Trust is committed to ensuring that the flexible working policy will be applied fairly and consistently and in a non-discriminatory way, i.e., regardless of:

- Race
- Gender
- Sexual orientation
- Disability
- Religion and belief
- Age
- Contract type
- Trade union membership.

## 3. Roles and Responsibilities

Employees are expected to:

- work in partnership with Headteachers to explore more flexible ways of working,
- work to objectives,
- complete the flexible working request forms in good time for it to be considered by the

Headteacher,

- raise problems with their Headteacher at the earliest practical opportunity.

Headteachers are expected to:

- work in partnership with employees to encourage flexible ways of working where appropriate,
- assess, monitor & review employees who are working flexibly and flexible working arrangements,
- follow the processes included in this document and ensure that the policy is applied in a consistent manner.

The Trust's HR providers are expected to:

- help facilitate take up of flexible working,
- encourage & promote best practice in terms of flexible working,
- monitor the process and,
- offer advice and guidance on process.

#### 4. What is Flexible Working?

There are many different types of flexible working, some examples are:

- part time working, reduction or variation of working hours/and or working days,
- home working – either on an occasional basis or on a more long-term basis,
- job sharing,
- shift working – phased or flexible retirement

Flexible working should assist the employee in maintaining a good balance between work and their home life. However, requests are not guaranteed, and some types of flexible working may not be possible for certain posts within Trust schools.

Offering flexible working arrangements can help to assist Trust employees at different stages of their life, such as those;

- with caring responsibilities,
- planning a phased retirement,
- returning from a career break,
- combining work in a Trust school with professional development or work in their field of study.

#### 5. Guiding Principles

It is important that both Headteacher and employees are aware of the guiding principles behind this Flexible Working Policy.

**Effective service delivery is a priority** – any consideration given to, or request for, flexible work options will be evaluated on its potential impact on the work of the school.

**Flexibility is encouraged but it is not an entitlement** – flexible working arrangements are not an entitlement, nor are they intended to confer preferential treatment. Flexibility is a different way of working. Not all jobs are suited to all the flexible options. Headteachers will try to approve

requests that are consistent with the needs of the school, and no request for flexible working will be dismissed without serious consideration. Reasons will be given if the request is declined. If the arrangement does not work for the school, it will not be approved. However, alternative options may be explored between Headteacher/Line Manger and employee.

**Equal access to a fair process** – individuals seeking a flexible work option will have to complete a standard request form. This will help to assess the proposed arrangement and how it might affect stakeholders and colleagues, as well as the individual's job. Headteachers will have to make an informed decision, and the aim of the process is to ensure that this is done fairly taking account of the circumstances. The same process is available to everyone, but it does not promise the same outcome for everyone (subject to Equalities legislation).

**Partnership** – employees should work together with their Headteacher to get the best from any proposed work option. Both will need to understand how it will affect the work of the school and agree how the arrangement will be reviewed and monitored to ensure the option is working effectively. Any problems must be raised at the earliest stage, and the individual and Headteacher must work together to resolve any problems.

## 6. Making an Application

An employee can apply for flexible working if they have worked continuously for the same employer for the last 26 weeks.

The following procedure must be followed when a request to work more flexibly is made. An application must:

- be in writing,
- explain what effect, if any, the employee thinks the proposed change would have on the workplace and how, in their opinion, any such effect might be dealt with,
- specify the flexible working pattern applied for,
- state the date on which it is proposed the change should become effective (if accepted implementation will usually take approximately 8 weeks),
- state whether a previous application has been made to the employer and, if so when it was made (an employee is able to make one application per year),
- be signed and dated.

To ensure that an employee includes the above compulsory information, the employee should complete a Flexible Working Request form (Appendix A).

It is also suggested that employees seek advice/guidance from their relevant Professional Association/Trade Union representative.

## 7. Withdrawing an Application

Employees should tell their Headteacher in writing if they want to withdraw their flexible working request application.

The Headteacher can treat an application as withdrawn if the employee misses 2 meetings to discuss an application or appeal without good reason, for example sickness.

The Headteacher must tell the employee in writing that they are treating the request as withdrawn (Appendix F).

## 8. Considering an Application

The employee's application must be considered by their Headteacher to establish whether the desired work pattern can be accommodated within the school. Advice should be sought from the Trust's HR provider prior to any meeting, to ensure fairness and consistency.

Following an application to work flexibly, the Headteacher will arrange a meeting to discuss the request with the employee. This meeting must be arranged within 28 calendar days after the date an application is received. If it is difficult to arrange a meeting within 28 calendar days, the Headteacher should seek the employee's agreement to extend the period and agree a date.

When considering a different working pattern both the Headteacher and employee must be aware of the employee's rights under the Working Time Regulations (see Appendix G - the Guidance notes for Headteachers and Employees).

The employee has the right to bring a **friend**/colleague or Professional Association/Trade Union representative with them to the meeting, if they feel this will help them. Their role will be to support the employee; if required, to address the meeting and to confer with the employee, but they may not answer questions for the employee.

The meeting will provide both parties with the opportunity to discuss the desired work pattern in depth and consider how it might be accommodated. Both the employee and Headteacher should be prepared to be flexible. If the original request cannot be accommodated, then an alternative working arrangement may be discussed. Each case will be considered on an individual basis taking into consideration the job role and the type of flexible working request received.

The Headteacher and employee may wish to agree that the new working pattern will take place for an agreed trial period in order to establish whether it is workable and whether there are any adverse effects on colleagues or the school.

All applications must be considered, and a decision reached within 3 calendar months of the original date of application, including time for any appeal and its outcome, unless a longer period is agreed between the Headteacher and employee.

## 9. Reaching a Decision

Before reaching a decision, the Headteacher may wish to discuss the application with the appropriate Local Governing Body (LGB) or Trust Board Committee. Once both parties have discussed the request, the Headteacher must notify the employee of the decision in writing. Notification must take place within 14 calendar days following the date of the meeting.

### Accepting a request

To ensure that an employee receives all the information when a request has been accepted, the Headteacher should complete a Flexible Working Acceptance form (Appendix B) detailing the new working pattern, the date on which it will start, the duration of any trial period and date of review, ensuring the form is dated.

The Headteacher should send a copy of the form to the Trust's payroll providers ~~so that changes are made to the employee's contract of employment~~, and a record is kept on the employee's file. This must be done in line with Payroll deadlines to ensure that employees are paid correctly. Schools should follow the contractual change procedure for MyView (Zellis link).

If the Headteacher needs more time to consider the request, they must obtain the agreement of their employee for an extension to the 14 calendar days in which to inform them of the decision following the meeting. In these circumstances, the proposal for an extension is likely to be in the employee's interests and the employee should be open to such requests.

### **Declining a request**

Advice should be sought from the Trust's HR provider prior to declining a request, to ensure fairness and consistency.

An application may only be refused where the Headteacher has a clear business reason for doing so, which should be one or more of the following prescribed business reasons. The Headteacher must not reject a request for any other reasons.

- burden of additional costs,
- detrimental effect on ability to meet customer 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 employee proposes to work,
- planned structural changes.

If the request is rejected, the notification must:

- state the business ground(s) for refusing the application,
- provide a sufficient explanation as to why the business ground(s) for refusal applies in the circumstances,
- provide details of the employee's right to appeal,
- be dated.

To ensure that an employee receives all the information when a request has been declined, the Headteacher should complete a Flexible Working Decline form (Appendix C).

The Headteacher should send a copy of the form to their HR provider so that a record is kept on the employee's file.

## **10. Right of Appeal**

There will be circumstances where the employee may believe that their request has not been properly considered and may want to appeal. Whilst there is no statutory right of appeal, under this Flexible Working Policy an employee will have 14 calendar days to appeal in writing after the date of receiving written notification of the employer's decision.

When appealing against a refused request an employee will have to set out the grounds for making the appeal by completing the Flexible Working Appeal form, ensuring the form is dated (appendix D).

An appropriate committee of the governing body will hear the appeal. The hearing must be arranged within 14 calendar days after receiving notification that the employee wishes to appeal. A friend/colleague or Professional Association/Trade Union representative can accompany the employee.

The employee must be informed of the outcome of the appeal in writing (Appendix E) within 14 calendar days after the date of the meeting and a copy of the appeal will be held on the employee's personnel file.

If the appeal is upheld, the written decision must include a description of the new working pattern, state the date from which the new working pattern is to take effect and be dated.

If the appeal is dismissed, the written decision must state the ground for the decision, provide an explanation as to why the grounds for refusal apply in the circumstances and be dated.

A written notice of the appeal outcome constitutes the employer's final decision and is effectively the end of the formal procedure within the workplace.

## **11. Failure to Comply**

Failure to comply with the above policy may result in a member of staff complaining to an Employment Tribunal. Further advice and information is available from the Trusts' HR provider.

## **12. Monitoring and Review**

Trustees will monitor the outcomes and impact of this policy on an a bi-annual basis in conjunction with school representatives and will discuss revisions with their HR provider.



**TRUSTED CSAT ALLIANCE FLEXIBLE WORKING REQUEST**

Trust School: .....

Employee's Name: ..... Personal No: .....

Date last applied under this right .....

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided by law.

1. Describe your current working pattern (day/hours/times worked):

2. Describe the working pattern you would like to work in future (days/hours/times worked):  
  
(you may continue on a separate sheet if necessary)

I would like this working pattern to commence from ..... (insert date)

3. Impact of the new working pattern. I think this change in my working pattern will affect my employer, colleagues and the school as follows (please explain the affect):

Name (signature) ..... Date.....

**Note to Headteacher:** This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications seriously. You should arrange a meeting with your employee to discuss their request within 28 calendar days of receipt of this application. **Please confirm receipt of this application as soon as possible.**

**TRUSTED CSAT ALLIANCE FLEXIBLE WORKING ACCEPTANCE**

School:.....

To (employee's name) ..... Personal No .....

Following receipt of your application and our meeting on ..... I have considered your request for a new flexible working pattern.

- I am pleased to confirm that I am able to accommodate your application.
- I am unable to accommodate your original request. However, I am able to offer the alternative pattern which we have discussed, and you agreed would be suitable to you.

Your new working pattern will be as follows:

Your new working arrangements will begin from .....

**Optional**

At the meeting we agreed that the new working pattern will take place for a trial period up to ..... (insert date) to establish whether the new working pattern is suitable to yourself and your colleagues and the school. As agreed, this will be reviewed on ..... (insert date).

**Note to the employee:** Please note that when you have reached the end of your trial period and your new working pattern is agreed, this will become a permanent change to your terms and conditions of employment, and you will have no right to revert to your previous working pattern.

Name (signature): ..... Date: .....

**Note to Headteacher – Please return this form to your employee and forward a copy to your HR Business Partner/HR Officer.**

**TRUSTED CSAT ALLIANCE FLEXIBLE WORKING DECLINE**

Trust School:.....

To (employee's name):..... Personal No .....

Following receipt of your application and our meeting on ..... I have considered your request for a new flexible working pattern.

Unfortunately, we are unable to accommodate your request on the following business ground(s):

The grounds apply in the circumstances because:

**Note to Headteacher:** You should explain why any other working pattern you may have discussed at the meeting is also inappropriate. Please continue on a blank sheet if necessary.

Name (signature):..... Date: .....

**Note to Headteacher – Please return this form to your employee and forward a copy to the Trust's HR provider**

**TRUSTED CSAT ALLIANCE FLEXIBLE WORKING APPEAL**

Trust School: .....

Name: ..... Personal No: .....

**Note to employee:** If your application has been refused, you may appeal against the decision. You can use this form to make your appeal. You should set out the grounds on which you are appealing and do so within 14 calendar days of receiving written notice that your application for flexible working has been turned down.

I wish to appeal against my Headteacher's decision to refuse my application for flexible working. I am appealing on the following grounds:

Name (signature): .....Date: .....

PLEASE RETURN THIS FORM TO YOUR HEADTEACHER WITHIN 14 CALENDAR DAYS OF RECEIVING WRITTEN NOTICE THAT YOUR APPLICATION FOR FLEXIBLE WORKING HAS BEEN TURNED DOWN.

**TRUSTED CSAT ALLIANCE FLEXIBLE WORKING APPEAL REPLY**

Dear (employee's name) ..... Personal No:.....

Following our meeting on ..... (insert date) I have considered your appeal against the decision to refuse your application for a flexible working pattern as follows:

Your new working arrangements will begin from ..... (insert date)

**Note to employee:** Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment and you have no right to revert to your previous working pattern.

I am sorry, but I must reject your appeal on the following ground(s):

The ground(s) apply because:

THIS DECISION IS FINAL AND THERE IS NO FURTHER RIGHT OF APPEAL.

Name (signature) ..... Date .....

<b>FLEXIBLE WORKING REQUEST - WITHDRAWAL NOTIFICATION</b>
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**Employee Withdrawal:**

School: .....

Employee's Name: .....Personal No .....

I would like to confirm that I am withdrawing the flexible working request application, submitted to you on .....(insert date). Please accept this as written confirmation of withdrawal of the request.

Signed (employee) ..... Date .....

Following receipt of your request to withdraw your flexible working request, your request is now confirmed as withdrawn.

Signed (Headteacher) ..... Date .....

***Note to Headteacher – Please return this form to your employee and forward a copy to the Trust's HR provider.***

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**OR****Headteacher confirmation of withdrawal:**

School: .....

Employee's Name: .....Personal No .....

Following receipt of your flexible working request, on .....(insert date), your request is now confirmed as withdrawn because..... (insert reason e.g. 2 meetings to discuss the flexible working application have been missed without a substantial reason).

Signed (Headteacher) ..... Date .....

***Note to Headteacher – Please return this form to your employee and forward a copy to the Trust's HR provider.***

## **TrustEd CSAT Alliance Flexible Working Policy Guidance Notes**

### **Flexible Working Policy Guidance Notes for Headteachers and Employees**

The following guidance notes are to help both employees and Headteachers in the process of finding appropriate working patterns to suit both parties. It will explain how to request an alternative work option and how to complete the relevant forms. It also gives helpful hints when considering alternative working options, preparing to meet with your Headteacher/employee, accepting and declining a request and the appeal procedure, should the request be declined. Further information is also available from the Trust's HR provider.

#### **1. Making an Application - 'Flexible Working Request' form (Appendix A)**

This form is used to make an application to request a different work option. Please note an employee may only make one request in any 12-month period unless specific circumstances apply. Copies of all the forms can be obtained from the Trust's Central Officer and from the Trust's HR provider.

#### **2. Helpful hints for employees completing the request form**

Employees should:

- provide as much information as they can about their desired work option so that the Headteacher can consider the request. It is important that all of the questions are complete to avoid the need for the Headteacher to request that the form is resubmitted with more information.
- when completing sections 2 and 3, think about what effect changing their working pattern will have on their job.
- demonstrate in their application that their proposal will not harm the service and may in fact enhance it.
- take time to consider how colleagues will manage if the work option changes and perhaps speak to any colleagues or friends who are already working flexibly. Ask them about their experiences.
- think about how any potential problems the proposal may present to the Headteacher could be overcome and ensure that this is included in the application.
- provide as much detail as possible about the preferred pattern of work.
- think carefully about the request as there is no right to revert to former hours of work if a permanent change is agreed.
- think about discussing a change in hours for a trial period. Consider consulting with a Professional Association/Trade Union representative prior to submitting a request.

- consider the impact a flexible working pattern that results in working fewer hours will have on pay and pension.
- contact the Trust's HR provider for further information and advice on requesting a new work option.
- forward completed forms to the Headteacher (keep a copy for own records). They will then have 28 calendar days after the day the application is received in which to arrange a meeting with to discuss your request.
- consider giving as much notice as possible as it will be more likely that the Headteacher will be able to implement the change when it suits the employee.
- check who will consider the application if the Headteacher is unavailable. It may be necessary to send it to his/her deputy, Executive Headteacher or the Chief Education Officer.
- Think carefully about when to make a request if maternity leave is imminent. It is advisable for employees to mention to the Headteacher before commencement of maternity leave that they are interested in requesting an alternative work pattern. It may be necessary to attend meetings with the Headteacher so that a request can be properly considered and made in good time in the event that the changes are requested on return from maternity leave.

### 3. How long will it take before the request can be implemented?

Requests will be considered as quickly as possible time but a decision will be reached within a maximum of 3 months, including any appeal against a decision. However, a longer timescale can be adopted as long as this is agreed between the employee and Headteacher. Employees must therefore ensure that they submit their application to their Headteacher well in advance of the date they wish the request to take effect.

### 4. Preparing for the meeting

It will be useful for both Headteachers and employees to familiarise themselves with this guidance before the meeting.

The **employee** should think about the following prior to the meeting:-

- Be prepared to expand on any points within their application,
- Prepare to be flexible. The Headteacher may ask if there are any other working patterns the employee would be willing to consider or, consider another start date or a trial period,
- Employees have a right to bring a companion to the meeting. This may be a colleague. Companion should be fully briefed on the request before the meeting, employees should provide them with a copy of the request form and inform the Headteacher that a companion will be present.



The Headteacher should consider the following prior to the meeting:-

- Make a list or draft an agenda of the issues they would like to discuss at the meeting, e.g., if the Headteacher is already aware that the request can be granted, they may wish to discuss a suitable start date before formally accepting the request,
- Inform the employee of anyone you have asked to join the meeting,
- Consult with other staff about covering any extra hours that may be created as a result of granting the request,
- Speak to the Trust's HR provider to ensure that options are clear and to ensure that the working patterns to be discussed comply with the Working Time Regulations.

## **5. Employee Rights under the Working Time Regulations**

When considering a different working pattern both the Headteacher and employee must be aware of an employee's rights under the Working Time Regulations. In brief, the following employee rights must be considered:

- An entitlement to a rest period of 11 uninterrupted hours between each working day,
- An entitlement to one whole day off a week,
- If an employee is required to work more than six hours at a stretch, they are entitled to a rest break of 20 minutes. The rest break should be taken during the six-hour period and not at the beginning or end of it. (A Headteacher must make sure that employees *can* take their rest, but are not required to make sure they *do* take their rest).
- There are additional rights for young workers (aged 16-18). Please contact the Trusts' HR provider for further advice.

## **6. Accepting the request - 'Flexible Working Acceptance' form (Appendix B)**

This form is completed by the employee's Headteacher when accepting an application to a new work option. They must complete and forward this form to the employee within 14 calendar days following the meeting.

A copy of this form must be forwarded to the Trust's payroll provider and be held on the employee's personal file.

Using MyView/Zellis, schools will need to submit a contractual change form to reflect the new working pattern. This will need to be completed before payroll deadlines to ensure that the change is effective from the date required so that employees are paid correctly.

## **7. Declining the request - 'Flexible Working Decline' form (Appendix C)**

This form is completed by the employee's Headteacher when an application is declined and should be returned within 14 calendar days following the meeting. Before completing this form, the

Headteacher must ensure that full consideration has been given to the application, and that any possible alternatives have been explored.

An application may only be refused where the Headteacher has a clear business reason for doing so, which should be one or more of the following prescribed business reasons. The Headteacher must not reject a request for any other reason.

- burden of additional costs,
- detrimental effect on ability to meet customer 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 employee proposes to work,
- planned structural changes.

In addition to providing a specific business ground the Headteacher must include an explanation about why the business ground applies in the circumstances. This should include the key facts that should be accurate and clearly relevant to the business ground. It is suggested that around two paragraphs is sufficient, although the actual length of explanation necessary to demonstrate why the business ground applies will differ depending on each individual case. It is not a requirement for the Headteacher to have to provide a lengthy and complex explanation looking to cover each query in fine detail - the aim is for the Headteacher to explain to the employee, in terms that are relevant, why the requested work option cannot be accepted.

A copy of this form must be forwarded to the Trust's HR provider and be held on the employee's personal file.

### **Appealing - 'Flexible Working Appeal' form (Appendix D)**

It will not always be possible for a Headteacher to agree to a new work option in every circumstance due to the needs of the school. In such circumstances, the reasoning why the request cannot be accepted should be clear to the employee from the notice of refusal. But there will be circumstances where the employee may believe that their request has not been properly considered and may want to appeal.

An employee must make their appeal in writing using the appeal form within 14 calendar days after the date they receive written notice that their request has been declined.

There are no constraints on the grounds under which an employee can appeal. It may be that they wish to bring to attention something their Headteacher may not have been aware of when they rejected their application, e.g., that another member of staff is now willing to cover the hours the applicant no longer wishes to work. Or it may be to challenge a fact the Headteacher has quoted to explain why the business reason applies.

The appeal will be heard by an appropriate committee of the governing body. The hearing must be arranged within 14 calendar days after receiving notification that the employee wishes to appeal. The employee can be accompanied by a friend/colleague or Professional Association/Trade Union representative.

Following the appeal meeting, the employee will be informed of the outcome in writing within 14 calendar days after the date of the meeting, using the Appeal Reply form (Appendix E).

If the appeal is upheld the written decision will:

- include a description of the new working pattern,
- state the date from which the new working pattern is to take effect; and
- be dated.

If the appeal is dismissed, the written decision will:

- state the grounds for the decision. These will be appropriate to the employee's own grounds for making the appeal,
- provide an explanation as to why the grounds for refusal apply in the circumstances,
- be dated.