



Washwood Heath
Multi Academy Trust

Flexible Working Policy & Procedure

Prepared by:	People Matters team in consultation with MAT-wide employees
Applies to:	Teachers & Support Staff in all WHMAT Academies
Approved by:	Board of Trustees on 26.06.2020
Issued to MAT Academies for use:	03.07.2020
Links to:	Life Leave Policy Family Friendly Policy Annual Leave Policy Career Break Policy Equal Opportunities Policy Code of Practice on requests to work flexibly (ACAS)
Annual review date	12 months from ratification by Board of Trustees

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1.0 Commitment & purpose of policy

- 1.1 WHMAT acknowledges that flexible working opportunities can have a positive impact on employee engagement, motivation and retention. This procedure has therefore been ratified by the Board of Trustees of Washwood Heath Multi Academy Trust (“WHMAT”) to help manage requests from employees to work flexibly under the Employment Rights Act 1996 and associated legislation.
- 1.2 This policy acknowledges that since 2014, every employee with at least 26 weeks’ continuous service with WHMAT has **a statutory right to request to work flexibly.**
- 1.3 WHMAT will do all that it reasonably can to ensure that requests to work flexibly are dealt with reasonably, objectively and fairly and in accordance with the Acas code of practice, employment law and good practice. A request to work flexibly may include the following, although the list is not exhaustive:
 - 1.3.1 a request to change working hours (for example to job-share, to work part-time or to go from all-year-round to term time only); or
 - 1.3.2 a request to change a place of work (for example to work from home for some or all of the working week/to be based at a different WHMAT academy); or
 - 1.3.3 a request to change the times that the employee works (for example starting and finishing earlier).
- 1.4 In accordance with the legislation surrounding requests to work flexibly, WHMAT will ensure that **all requests, including appeals, made under this procedure are considered and decided on within three calendar months of first receipt.** However, these timescales may be extended by mutual written agreement between the parties.
- 1.5 Throughout this procedure, the word “should” is used to indicate what Acas considers to be good employment practice, rather than a legal requirement. The word “must” is used to indicate where something is a legal requirement.
- 1.6 References in this procedure to the employee’s “chosen companion” means a trade union representative or a co-worker at the same workplace chosen by the employee (as WHMAT is one legal employer, this could include a companion from any of the WHMAT academies).
- 1.7 References to the CEO, also include the Deputy CEO.

2.0 Eligibility

- 2.1 WHMAT will only consider requests to work flexibly under this procedure if they have been made by eligible employees. An eligible employee is someone who:
- a) Is an employee; and
 - b) Has worked for WHMAT continuously for at least 26 weeks at the date the request is made; and
 - c) Has not made a formal request to work flexibly during the last 12 months (unless it relates to a request to consider reasonable adjustments due to a disability under the Equality Act 2010). Each 12-month period runs from the date when the most recent request was made.

3.0 Making the request to work flexibly

- 3.1 Colleagues are encouraged to have an informal chat with their line manager before submitting a formal request to work flexibly.
- 3.2 Those wishing to submit a request to work flexibly must make a request in writing as follows:

Person Requesting	Considered by*
CEO/Deputy CEO	Chair of Trustees
Acting Executive Head	CEO
Head of Academy	CEO
Acting Head of School	Acting Executive Head
Core Team Director	CEO or Deputy CEO
Other Core Team Member	Functional Director e.g. Estates, People, ICT, Finance
All other academy colleagues	Head of Academy/Head of School
*Please take advice from WHMAT's People Matters team before	

agreeing or turning down a request to work flexibly and use templates in the accompanying “Flexible Working Toolkit”	
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- 3.3 The request should include the following information:
- a) The date of the request and a statement that this is a statutory request under section 80F of the Employment Rights Act 1996;
 - b) The change to terms and conditions being requested;
 - c) When they would like the change to come into effect;
 - d) What effect, if any, the employee thinks the requested change would have on WHMAT, and how, in their opinion, any such effect might be dealt with;
 - e) If they have previously made a request to work flexibly whilst employed by WHMAT, the date when this previous request was submitted; and
 - f) Whether there are any considerations under the Equality Act 2010 which they would like the appropriate manager to consider (e.g. reasonable adjustments)
- 3.4 Ideally, requests from employees should be submitted **at least two months before they wish the changes they are requesting to take effect.**
- 3.5 It is good practice, (but not a legal requirement), for WHMAT to allow employees to be accompanied at formal meetings under this procedure. This includes one single companion who is either a work colleague or trade union representative. They may address the meeting and confer with the employee during the meeting (but not answer questions on behalf of the employee). If the chosen companion will not be available at the time proposed for the meeting and the employee proposes an alternative time within 5 working days of the initial date suggested, then the head of academy will postpone the meeting once to an alternative date.
- 3.6 The request shall be taken as made on the day it is received as defined in the Regulations, i.e. on the day on which an electronic communication is transmitted, or, if the request is sent by post, the day on which the application would be delivered in the ordinary course of post, or if the request is delivered personally, on the day of delivery.

4.0 Responding to the request to work flexibly

- 4.1 On receipt of the request the appropriate manager should:
- a) acknowledge it in writing within a reasonable period and provide the employee with a copy of this procedure (see manager's toolkit for model letters);
 - b) consider the request carefully by weighing up the benefits and limitations of the requested changes in working conditions for the employee and for WHMA; and
 - **either** agree to the request and notify the employee in writing as soon as reasonably possible of the variation agreed and the date that it starts, **bearing in mind that the whole process, including any appeal and notification of that outcome needs to be finalised within 3 months of receipt of the initial request** (If the appropriate manager is agreeing to a request, a meeting may take place with the employee to discuss it, but this is not obligatory).
 - **or** discuss the request with the employee in a private place as soon as possible after the request is received, **bearing in mind that the whole process including any appeal and notification of that outcome needs to be finalised within 3 months of receipt of the initial request.** If more convenient to the employee, the discussions may take place during a telephone conversation instead of in a meeting. The discussions should be recorded in writing, whether they take place by telephone or in a meeting.
- 4.2 If the appropriate manager arranges a meeting to discuss the request (including any appeal) and the employee fails to attend both this and the rearranged meeting without a good reason, they may, by law, consider the request to be withdrawn. In these circumstances, the appropriate manager must notify the employee in writing of this outcome.
- 4.3 Where a discussion or meeting is held under 4.1 the appropriate manager shall give the employee written confirmation of the decision as soon as possible and having regard to the timescales at 1.5. If the decision is to agree the request, the letter shall specify the contract variation agreed (whether temporary or permanent), and the date on which the variation is to start.
- 4.4 Where the manager is minded to refuse the request, it is advisable for them to take advice from the People Matters team before doing so, via peoplematters@whmat.academy and to include them in any formal meetings.

- 4.5 The outcome letter from the appropriate manager must:
- a) State which of the business grounds at 4.5 below are being used to justify the refusal; and
 - b) Explain why those business grounds apply; and
 - c) Set out the appeal procedure.
- 4.6 A request to work flexibly may be turned down on one or more of the eight business grounds below:
- a) the burden of additional costs;
 - b) detrimental effect on ability to meet customer demand (pupils and/or parents in the case of academies);
 - c) inability to re-organise work amongst existing staff;
 - d) inability to recruit additional staff;
 - e) detrimental impact on quality;
 - f) detrimental impact on performance;
 - g) insufficiency of work during the periods the employee proposes to work; and/or
 - h) planned structural changes
- 4.7 If the appropriate manager rejects the request, the employee must be allowed to appeal against this decision and should be notified in writing of the outcome and of the appeal process, namely to whom the employee should submit an appeal and a reasonable date by which it should be submitted.
- 4.8 A request to work flexibly from the CEO shall be dealt with in the same way as for all other WHMAT staff under this procedure, except that the initial request should be addressed to the Board of Directors, with any subsequent appeal being dealt with by a committee of 3 impartial governors not previously involved in the earlier decision.

5.0 Trial Periods

- 5.1 If the appropriate manager is unsure whether an employee's request to work flexibly is sustainable in the long term, or is concerned about the impact that the arrangement could have on the organisation e.g. parents, fellow colleagues and/or pupils, it may agree to vary an employee's contract on a temporary basis for a fixed period. This will give both parties a trial period to test the suitability of the arrangement without commitment by either side to agree the arrangement on a permanent basis.
- 5.2 To avoid any misunderstanding, the appropriate manager must ensure that written confirmation is provided to the employee within three calendar months of receiving the request. The outcome letter from the appropriate manager school should make it clear whether the working arrangement has been agreed on a temporary or fixed/permanent basis and/when the arrangement will be reviewed (see template letter in toolkit).
- 5.3 Regardless of what has been agreed, any changes to the employee's contract or working pattern should be promptly notified to hroperations@whmat.academy, so that the appropriate amendments to pay can be made.
- 5.4 It is good practice for the manager to hold regular review meetings with the employee during the trial period to assess whether or not the arrangement is working for both parties. If the arrangement is working for the team or academy, the appropriate manager may wish to make the contract variation permanent in consultation with the employee. Alternatively, if it is not working for the team or academy, the manager should discuss this with the employee in good time before the end of the trial period in question, to avoid any surprises, and confirm before the end of the trial period, whether management wish them to go back to their original working pattern or whether they are happy for the contract variation to be made permanent.
- 5.5 Regardless of the outcome of the review meeting at 5.4, the manager must ensure that they email hroperations@whmat.academy to confirm the position in good time before any change takes effect.

6.0 Appeals

- 6.1 If the appropriate manager or committee turns down an employee's request to work flexibly, they are entitled to appeal against this decision within 10 working days of receiving the written outcome.
- 6.2 The appeal shall either be based on a) perceived procedural errors; or b) perceived unfairness surrounding the decision reached by the appropriate manager. The appeal is not an opportunity for the original request to work flexibly to be re-heard.
- 6.3 The appeal letter should be emailed to peoplematters@whmat.academy and should clearly state what the grounds of appeal are, enclose any relevant supporting evidence and clarify whether they wish to call any relevant witnesses (witnesses must be relevant to the contents of their appeal). A representative from this team will then liaise with the appropriate colleagues to set a date/time for the appeal.
- 6.4 The appeal must be heard and a decision reached and communicated to the employee in writing **within three months from the date that the initial request to work flexibly was received (unless the employee and the appropriate manager agree to an extension of the statutory period).**
- 6.5 Appeals will be heard as follows:

Person appealing	Heard by
CEO/Deputy CEO/Acting Executive Head/Head of Academy/Core Team Director	3 impartial Board Trustees
Acting Head of School	CEO/Deputy CEO
Other academy colleagues	CEO/Deputy CEO/Acting Executive Head
Other Core Team Member	CEO or Deputy CEO

- 6.6 The People Matters team will arrange the appeal as soon as reasonably practicable, ensuring that the employee is kept updated and that a bundle is compiled setting out the policy, format for the appeal and supporting paperwork. The original decision maker will be invited as a witness or will be

asked to provide a statement clarifying their involvement and their rationale for turning down a request to work flexibly.

- 6.7 An invite letter will accompany the paperwork and the employee will be given at least 5 working days' notice of the appeal. A minute taker will be present to keep a confidential note of the meeting. The employee will have a right to be accompanied by a work place colleague or trade union representative.
- 6.8 The role of the person or persons hearing the appeal will be to consider the employee's appeal letter and any relevant supporting evidence, together with representations from the original decision maker and to decide whether or not to:
- (a) agree with the original decision not to grant flexible working as requested (i.e. to dismiss the employee's appeal); or
 - (b) grant the flexible working request (i.e. to uphold the employee's appeal);
- 6.9 Regardless of the outcome at 6.8, the People Matters team will support the person or persons hearing the appeal with an outcome letter which summarises the decision. This will be provided to the employee within 5 working days of the appeal unless there are exceptional circumstances. If the decision is to uphold the appeal, the letter shall specify the contract variation agreed and the date on which it is to start. Where the decision is to dismiss the appeal, the letter shall state the reasons for that decision ensuring that sufficient explanation is provided.
- 6.10 The appeal decision will be final.

7.0 Informal requests to work flexibly

- 7.1 As well as an employee's statutory rights under this procedure, flexible working may arise in other contexts, such as discussions about an employee's health and/or under their right to request a reasonable adjustment on the grounds of a disability under the Equality Act 2010. In such cases, an employee may, but is not obliged to make a formal request under this procedure. However, WHMAT will still ensure that any such request to vary their contract is dealt with in a reasonable and consistent way in line with good HR practice. This includes confirming details of any variation agreed in writing to the employee, with reasons, within a reasonable period.

8.0 Policy Review

- 8.1 This policy will be reviewed every 12 months by WHMAT's People Matters team in consultation with MAT-wide colleagues and recognised trade unions.

FLOWCHART: DEALING WITH REQUESTS FOR FLEXIBLE WORKING

