

## **FLEXIBLE WORKING SCHEME**

### **1. PURPOSE**

This Scheme sets out the criteria and procedure to request flexible working arrangements. It has been agreed by the Management and Teachers' Sides of the Teachers' Negotiating Committee (TNC) in recognition of the changing nature of schools, society and the demands placed on teachers, including Principals and Vice Principals, as they attempt to balance their personal and professional demands and responsibilities.

Schools and teachers can benefit from flexible working, for example:

- Schools are able to match resources to work need, attract and retain staff whilst reducing salary costs, raise staff morale and maintain a high level of service; and
- Teachers can balance more effectively the demands of work and home.

### **2. THE LEGAL CONTEXT**

The right for teacher to request flexible working is set out in the **Flexible Working (Procedural Requirements) Regulations (Northern Ireland) 2003**. In addition, where a teacher considers that his or her treatment either in making the request, its consideration or afterwards in their continuing employment in the school is discriminatory he/she may make a claim to an industrial tribunal under one or more of the relevant pieces of equality legislation:

- Equal Pay Act (NI) 1970 (as amended);
- Sex Discrimination (NI) Order 1976 (as amended);
- Disability Discrimination Act 1995 (as amended);
- Race Relations (NI) Order 1997 (as amended);
- Fair Employment and Treatment (NI) Order 1998 (as amended);
- Part Time Workers Less Favourable Treatment Regulations 2000 (as amended);
- Employment (NI) Order 2002;
- Flexible Working (Procedural Requirements) Regulations 2002;
- Employment Equality (Sexual Orientation) Regulations (NI) 2003;
- Employment Equality (Age) Regulations (NI) 2006.

### **3. SCOPE**

This Scheme enables eligible teachers to request:

- A change to the hours they work;
- A change to the times when they are required to work.

Although teachers with caring responsibilities, as detailed in paragraph 5, have a legal right to request flexible working, the Board of Governors recognises that other teachers may also wish to make such requests. All requests will be given serious consideration.

Consideration may also be given to other work patterns such as, job sharing, temporary variation of contract or a career break. Governors will attempt to accommodate a teacher's needs and balance those with the educational needs of the school. Teachers

who wish to consider a particular form of flexible working should obtain a copy of the relevant scheme from the Principal.

#### **4. AIMS**

1. To assist teachers with caring responsibilities and to balance these with their role at the school.
2. To enable teachers to accommodate other personal circumstances with their role at the school.
3. To ensure compliance with the legislative requirements for employees with caring responsibilities for children and adults, who have the right to apply to work flexibly and have their application considered seriously by the Board of Governors.

#### **5. ELIGIBILITY**

**The Scheme applies to all teaching staff including Principals and Vice Principals**

In order to make a request under the Scheme a teacher will:

- Have worked continuously for 26 weeks as a teacher in Northern Ireland at the date the application is made;
- Not normally have made another application in the past 12 months, although there may be exceptional circumstances where this is waived.

In the following circumstances eligible teachers (as above) have a statutory right to request to work flexibly to provide care for:

- a child under 17 (amended from under 6 on 18 July 2010 under the Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations (NI) 2010) (or under 18 in the case of a disabled child). If they have responsibility for the upbringing of the child and they are: the mother, father, adopter, guardian, special guardian or foster parent; or, married to or the partner of the child's mother, father, adopter, guardian, special guardian or foster parent.
- an adult if they are: the spouse, partner, civil partner or \*near relative of that adult or live at the same address as the adult for whom they provide \*\*care.

\*The term "near relative" means father, mother, husband, wife, brother, sister, son, daughter, grandparents, father-in-law, mother-in-law, son-in-law or daughter-in-law, grandchild.

\*\*Carer in this context will include a person for whom the teacher has primary caring responsibility, such as an elderly relative not living in the teacher's household.

In these cases it is particularly important that the following procedure and timescales are followed in order to comply with legislation.

#### **6. APPLICATION PROCEDURE**

1. The teacher should apply in writing to the Principal using form FW1 (attached).

2. Within 28 days of receipt of the written application the Principal will arrange to meet with the teacher. This will provide an opportunity to explore the desired work pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative working patterns should there be problems in accommodating the desired work pattern outlined in the teacher's application. The teacher will, if they so wish, be accompanied by their Trade Union representative or a teaching colleague.

When considering the application, the Board of Governors, excluding the appeal sub-committee, should give cognisance to the nature of the request and the purpose and aims of this Scheme. The timescales must be adhered to, however, it is accepted that applications received immediately prior to a period of school closure may not be processed within the stated timeframe.

3. It is important that the decision on the viability of the request is based, not only on the teacher's personal circumstances but also on clear and justifiable business reasons, see below. This may also include how the duties and responsibilities of the post might be covered and the qualifications, experience, knowledge and skills required for the effective performance of the duties of the post.

Having determined that the post is suitable for flexible working the Board of Governors will be required to give consideration to the needs of the teacher.

It is important that the decision in relation to the viability of a flexible working arrangement is based on clear and justifiable business reasons, for example:

- the additional costs;
- the effect on the school's ability to meet pupils' needs;
- the ability, or otherwise, to reorganise work among existing staff;
- the effect on the quality of education to be provided;
- an insufficiency of work during the time when the teacher proposes to work.

4. Where the request is granted a dated letter should be sent to the teacher, within 14 working days of the decision, defining the new work pattern and the start date.

A copy of this letter should be forwarded to the Employing Authority.

5. In circumstances where the Board of Governors, **after seeking advice from the Employing Authority**, determines that the request for flexible working is to be refused it must record the reasons for its decision and a dated letter should be sent to the teacher within 14 days of the decision, stating:
  - the business ground(s) for refusing the application;
  - an explanation as to why the business ground(s) for refusal apply in the circumstances;  
and
  - provide details of the right of appeal.

A copy of the letter should be forwarded to the Employing Authority.

6. The timescales may be extended by agreement, for example to enable the school to investigate further before notifying the teacher with the final decision, however a decision will not be unduly delayed.
7. A successful application will normally result in a permanent change to the teacher's contract of employment and there is no automatic right to revert back to the previous working pattern.
8. However, there may be occasions where only temporary changes are required or appropriate, or where a trial period is agreed. In such cases the temporary change may apply for up to a maximum of three years, after which time the teacher may revert back to his/her substantive contract or, if he/she wishes to continue, the change to the contract of employment will become permanent.

## **7. APPEALS**

A teacher who believes the request has not been properly considered may lodge an appeal, setting out the grounds of the appeal, in writing, to the Chair of the Board of Governors, within 14 working days of receipt of the notification of the decision. A copy of the appeal should be sent to the Employing Authority.

Appeals shall be heard by the appeals sub-committee of the Board of Governors, which must arrange a meeting to hear the appeal within 14 days of receipt of the appeal.

The teacher has the right to be accompanied at the meeting by a teaching colleague or a recognised trade union representative. Legal representation is not permitted.

The appeals sub-committee must inform the teacher of the outcome of the appeal, in writing, within 14 days of the date of the meeting.

If the appeal is upheld the notification 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 notification must:

- state the grounds for the decision;
- provide an explanation as to why the grounds for refusal apply in the circumstances; and
- be dated.

There is no further right of appeal under this Scheme.

## APPLICATION TO WORK FLEXIBLY

### PART A – FOR COMPLETION BY THE TEACHER

It will help your Principal to consider your request if you provide as much information as you can about your desired working pattern. Consider what effect your proposed change in working pattern will have both on the work that you do and on your colleagues, and how this change might be accommodated.

Name: \_\_\_\_\_ Teacher Reference Number: \_\_\_\_\_

School: \_\_\_\_\_

I have worked continuously as a teacher in Northern Ireland for the last 26 weeks. **Yes/No**

Date of any previous request to work flexibly: \_\_\_\_\_

This application is being made under the statutory right to request a flexible working pattern.

#### Reason for request: (tick appropriate boxes)

##### 1. Childcare

I have responsibility for the upbringing of either:

- a child under 17
- or a disabled child under 18
- I am the mother, father, adopter, guardian, special guardian or foster parent of the child
- or I am married to, or the partner or civil partner of, the child's mother, father, adopter, guardian, special guardian or foster parent

*Or*

##### 2. Caring responsibilities for an adult

I am, or expect to be, caring for an adult for whom I am:

- the spouse, partner, civil partner or relative of the adult in need of care
- or not the spouse, partner, civil partner or near relative of that adult, but live at the same address

**Describe your current working pattern (days/hours/times worked):**

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**Describe the working pattern you would like to work in future (days/hours/times worked):**

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**I would like this working pattern to commence from:**

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**What effect do you think the proposed change would have on the school/service/colleagues and how do you feel any such effect might be dealt with?**

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Send completed application to your Principal and retain a copy for your own records.**

## APPLICATION TO WORK FLEXIBLY

### **PART B - FOR COMPLETION BY PRINCIPAL AND BOARD OF GOVERNORS**

Application acknowledged in writing on:

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Further information required. Principal met with teacher on:

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The Board of Governors (excluding the appeal sub-committee) met to consider the application on:

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Names of Governors present:

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The decision of the Board of Governors is as follows:

**Application Granted/Not Granted** (Delete as appropriate)

### **APPLICATION GRANTED**

If application granted, has a letter been sent to the teacher defining the new work pattern and start date: **YES/NO** (Delete as appropriate)

### **APPLICATION AMENDED AND GRANTED – PLEASE SUPPLY DETAILS**

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### **APPLICATION NOT GRANTED**

If application not granted please indicate the clear and justifiable business reason(s). Refer to Paragraph 6 of the Scheme:

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If application not granted was the Employing Authority consulted before the meeting of the Board of Governors? **YES/NO** (Delete as appropriate)

Has a letter detailing the reasons and an explanation of the reasons been issued to the teacher concerned? **YES/NO (Delete as appropriate)**

Has the teacher exercised the right of appeal? **YES/NO (Delete as appropriate)**

Appeals sub-committee met to hear the appeal on:

\_\_\_\_\_

Names of Governors Present:

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\_\_\_\_\_

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Was the teacher accompanied at the meeting? **YES/NO (Delete as appropriate)**

Accompanied by: **Trade Union Official/Teaching Colleague** (Delete as appropriate)

The decision of the Appeals sub-Committee was as follows:

**APPEAL UPHELD/APPEAL DISMISSED** (Delete as appropriate)

If the appeal was upheld, has notification of the new arrangements been given to the teacher?

**YES/NO (Delete as appropriate)**

Please attach details.

If the appeal was dismissed, has notification of the grounds for refusal and explanation of those grounds been given to the teacher?

**YES/NO (Delete as appropriate)**

Please attach details.

Signed: \_\_\_\_\_ Signed: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Chairman of BOG

**Please forward the completed Form FW1, PART A AND PART B, Board of Governors Minutes and, where applicable, copies of letters to the teacher to:**



