### RIGHT TO REQUEST FLEXIBLE WORKING (People Management Handbook for Schools)

### Who this policy applies to

### This policy applies to all employees of the City Council on permanent or temporary contracts. This policy does not apply to casual workers, consultants, agency workers or any other workers who are not employees of the Council.

### 1. Scope of the Policy

1.1 Nottingham City Council recognises the importance of helping colleagues to balance their work and home life by offering flexible working arrangements that enable them to balance working life with other priorities, including parental and other caring responsibilities, life-long learning, charity or other voluntary work, leisure activities and other interests.

1.2 A flexible working request may be made under a current flexible working policy (e.g. Job-Share Scheme or Flexible Retirement). However, head teachers may also consider requests that do not fall within one of the established schemes.

1.3 The process described below can be followed for any flexible working request but there is only a legal obligation to do so where the request is made under the statutory Right to Request Flexible Working legislation. For flexible working requests that are not made under this legislation, school leaders and employees may prefer to reach agreement without following the process described below.

**2. Statutory Requirements and Obligations**

2.1 All employees have the statutory right to request a flexible working arrangement from day one of their employment.

2.2 Employees are entitled to make two requests for flexible working under the statutory scheme in a 12-month period.

2.3 The school will deal with all applications in a reasonable manner and will notify the employee of its final decision (including the outcome of any appeal) within a ‘decision period’ of two months of the application (subject to any agreement that might be reached to extend this time period). It is recognised that term dates may impact on the time frame for considering an application and an appeal and, therefore, any extension should be agreed and discussed at the earliest opportunity.

2.4 Return to work following maternity leave

Employees who wish to return to work on a different working pattern, including on a job share basis) need to follow the process in this Policy. They must give their head teacher at least 3 months’ notice prior to their return date to enable appropriate arrangements to be put in place.

* 1. How to apply

A statutory request to work flexibly must be in writing (which includes email) and state that it is an application under the legal right to request flexible working, including:

1. the date of the request;

b) setting out the change to working conditions they are seeking, e.g. a new working pattern, and the date they wish it to become effective; and,

c) stating whether any previous application(s) for flexible working have been made by the employee to the school (or previous school within 12 months) and, if so, when

2.6 An employee may request changes that relate to:

a) the number of hours they are required to work

b) the times they are required to work

c) where they are required to work

2.7 Dealing with applications

The headteacher should give serious and full consideration to all requests to work flexibly, making note of the time limit for dealing with requests of two months. If the employee is seeking a reasonable adjustment for their disability through a request for flexible working, the school must consider this in line with an employer’s legal obligations under the Equality Act.

2.8 Agreeing to the request

If the change proposed is agreed in full, or a modified alternative arrangement is agreed after consulting with the employee, the headteacher must notify the employee of the variation that has been agreed and the date on which it will take effect (and end or be reviewed, if it is a temporary or trial arrangement), without unreasonable delay, taking into account the statutory decision-making period of two months. The headteacher should ensure that the contractual change is processed through the school’s payroll provider and that the employee receives a variation to contract reflecting this, a copy of which should be retained on their personal file at school.

2.9 If a change is agreed at this time, it will need to be determined whether this is a permanent or temporary short term arrangement. If there is a permanent variation of contract there will be no right for the employee to revert to the former arrangement. However, an employee may request a return to their former working arrangement once they no longer need, or want, the flexible arrangement and headteachers should consider such requests in line with this policy.

2.10 Consulting the employee

An application for flexible working cannot be rejected without first consulting the employee. The headteacher should invite the employee to a consultation meeting to discuss the request without unreasonable delay, taking into account the statutory decision-making period of two months. This provides an opportunity to gain a better idea of what changes the colleague is seeking, to discuss any problems and to consider alternatives. The meeting should be held privately, however it does not need to be face-to-face and can be held by phone or some other way, if the manager and employee agree.

If the request cannot be accepted in full, the headteacher and employee should explore if it may be possible to agree to some aspects of the request, or any other alternative flexible working options.

A written record of the meeting should be kept.

2.11 If, after the meeting, no variation is agreed and the request is rejected then the headteacher must inform the employee in writing giving clear reasons for rejecting the request.

2.12 The only valid grounds for rejecting a request are as follows:

1. the burden of additional costs
2. detrimental effect on ability to meet customer demand (this includes pupils)
3. inability to re-organise work among existing staff
4. inability to recruit additional staff
5. detrimental impact on quality or performance
6. insufficient work for the periods the employee proposes to work
7. planned structural changes to the business

2.13 The written decision should set out clearly why the business reason applies in the circumstances and be accurate and relevant.

2.14 The outcome of the meeting should be communicated to the employee in writing without unreasonable delay, taking into account the statutory decision-making period of two months.

**3. The Appeal**

3.1 The employee may appeal the decision if their application to work flexibly is declined and must put their appeal in writing within 10 working days of receipt of the headteacher’s decision, setting out the grounds for appeal.

The appeal will be heard by a governing body panel, consisting of governors who have not been involved in the previous decision. This should take place without unreasonable delay, taking into account the decision-making period of two months, unless an extension to the time limits has already been agreed.

3.2 The employee will be notified of the decision without unreasonable delay, taking into account the decision-making period of two months, unless an extension to the time limit has already been agreed. The outcome should detail any agreement that has been made or provide an explanation of the grounds for dismissing the appeal.

3.4 The outcome, and any other correspondence regarding the matter, should be in writing and should be dated, with copies retained on the employee’s file for future reference.

3.5 The decision of the appeal stage is final.

**4. Time Limits**

4.1 There may be a number of reasons why the time limits specified above are too short and an extension may be required: for example, more time may be needed to explore an alternative working pattern, or to employ a job share partner to ensure classroom cover. Time limits can be extended where the headteacher and the employee agree. A written record of the agreement must be made which states which period the extension relates to and the date the extension is to end. This must be dated and sent to the employee, to prevent a dispute arising as to whether there has been compliance with the required time limits.

**5. Right to be accompanied**

5.1 Meetings held to discuss flexible working requests have no statutory right of accompaniment; however, if the employee asks to be supported at a meeting by a trade union representative or work colleague, this will be supported.

**6. Withdrawal of application**

6.1 If the employee verbally withdraws their application, then the headteacher should write to the employee to confirm this.

6.2 Where the employee fails to meet their responsibilities, the head teacher may also treat an application as withdrawn. This will apply when an employee fails, without reasonable cause, to attend a meeting more than once, or unreasonably refuses to provide the headteacher with information required to assess whether the contract variation can be agreed. In these circumstances, the headteacher should write to the employee to confirm that the application has been withdrawn.

**7. Trial Periods**

7.1 Where the headteacher or an employee is unsure of how successful a new way of working will be, it is possible for a trial period to be agreed (except in the case of flexible retirements). In such circumstances, the agreement should clearly state:

a) that agreement to the flexible working request is subject to the outcome of the trial period

b) the length of the trial period

c) that the change to the employee’s terms and conditions during the trial period is a temporary change to their terms and conditions of employment

d) what the temporary changes are, during the trial period (e.g. a change to working hours)

e) the date at which the employee will revert to their previous terms and conditions of employment if the trial period is not successful. This should allow time for the employee to re-adjust to their previous terms and conditions of employment (e.g. make appropriate childcare arrangements). In practice, this may extend the length of the trial period.

7.2 Schools must ensure that their payroll provider is notified of any changes in sufficient time for any amendments to be actioned, and contractual variations are provided to employees reflecting the changes.

**8. Monitoring**

8.1 The City Council commits to monitoring instances of flexible working amongst its workforce and to keep the Right to Request Flexible Working Policy under review. This monitoring may be used to target flexible working pilots/initiatives to encourage work/life balance in areas where flexible working is under-utilised. However, it must be recognised that there are areas where this is not always practical and schools will need to consider the merits of each case in line with the provisions of this Policy.