

The **co-operative** academies trust

Right to request Flexible Working Policy

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The Co-operative Academies Trust

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The Co-operative Academies Trust

Right to request Flexible Working Policy

1.0 Summary of main points

Every employee of The Co-operative Academy Trust (CAT), whether school based or not, is entitled to make a flexible working request as long as s/he has been continuously employed by CAT or a predecessor school (not via an agency) for 26 weeks, and has not made another application to work flexibly under the right during the past 12 months.

The application must:

- be made in writing;
- give details of the contract variation sought;
- explore the effect of the contract variation on the school and/or CAT

In this policy, “Manager” is taken to mean Principal / Headteacher / Director of the Trust; it may also mean the line manager where responsibility to consider and decide on requests for flexible working has been delegated to other senior managers by the Principal/Headteacher.

All requests, including any appeals, must be considered and decided on within a period of three months from first receipt, unless an extension is agreed. The **recommended** timescales (e.g. meetings must be held within so many days) set out in this policy are intended to help achieve this, but are no longer a statutory requirement.

Informal Process

Nothing in this process should preclude informal discussion and resolution of flexible working requests. In other words, if mutual agreement can be reached through discussion between a manager and an employee then the formal process set out in this document does not need to be followed. However, a note of the request, discussion and outcome should be made and placed on file, and any resulting change to contractual terms & conditions of employment should be formally notified in the usual way. Equally, should an employee prefer to follow the steps outlined in this document from the outset, then they shall not be penalised in any way for doing so.

2.0 Introduction

- 2.1 Flexible working opportunities can provide benefits to everyone: employers and their organisations, and employees and their families. Many employers have found that it makes good business sense to provide flexible working opportunities for their staff.
- 2.2 The government is committed to providing employees with better opportunities to balance work and personal life and the right to request flexible working is part of a series of legal rights initially introduced for parents under the Employment Act 2002. These rights were extended in April 2010, and again in June 2014 to extend the right to request flexible working to all staff.
- 2.3 Practical solutions that suit both employer and employee are likely to increase motivation and commitment and to have positive effects on the quality of provision for pupils though improved attendance levels and effective stress management. However it is acknowledged that there will always be reasons where, due to the needs of the school, the application cannot be accepted.
- 2.4 The aim of this procedure is to ensure that managers and employees understand their rights and responsibilities under the procedure. This will ensure that employees are able to exercise their right to apply to work flexibly, and that a fair and consistent approach is exercised in respect of all requests.
- 2.5 The Trust recognises the importance of a good work/life balance and this policy aims to facilitate employees in achieving this. However, it must be remembered that providing a high quality education to our pupils and students is our over-riding priority and all requests to work flexibly will be considered in this context.

3.0 Scope

The right to request flexible working applies to all staff who have 26 weeks or more continuous service with CAT (or transferred in continuous service) at the date of application. Agency workers do not have a right to request flexible working. Employees must not have made another application to work flexibly under the right during the past 12 months.

All eligible staff can request a wide range of changes to their hours of work. This not only includes job share and part-time working, but also compressed hours or a move to term-time only. Further examples are given at **Annex 1**, although it is recognised that these may not all be applicable in an educational setting.

It is important to note that where the change sought involves a reduction in hours worked there will also be a pro-rata reduction in salary, annual leave entitlement and any other pro-rata'd benefits. It is recommended that advice is sought by the employee from their pensions provider if there is a reduction in hours worked.

Any changes to a staff member's terms and conditions of employment will normally be permanent. Where a temporary change is sought and agreed, whether for a set period of time or for unspecified period, this must be specifically confirmed in writing by the Manager.

4.0 Making a formal application to work flexibly

A formal application to work flexibly can be made at any time. Before submitting a formal application to work flexibly, please make sure you have read the information in this guide carefully and be sure that you are certain you want to make a formal request. It is important to remember that once you have submitted a formal application for flexible working you will not be able to submit another one for 12 months, even if your original request is turned down. You may therefore find it helpful to have an informal meeting with your line manager before making a formal request. This conversation may also help to identify any potential issues or problems with your proposed working arrangements and give you time to think through how you could overcome them.

Governing Bodies and Managers determine staffing requirements on the basis of the academic year. It would therefore be helpful if requests could take account of this and be made to coincide with the natural divisions in the school year. For example, it may not be practical to accommodate a change in working hours mid-term because of the impact on the continuity of education for the pupils.

Applicants must specify a start date for the proposed change, giving the employer reasonable time to consider the proposal and implement it, which may take up to 3 months.

Applications should be made to the Manager on the pro-forma at **Annex 2**.

5.0 Considering applications

5.1 *The Initial Request*

A meeting should be held within 28 days of the receipt of the application to discuss the details of the request. Meetings should be at a time and place convenient to both parties, and reasonable notice of the meeting should be given.

The employee has the right to be accompanied by a trade union representative or a work colleague of their choosing. The trade union or the work colleague has the right to address the meeting and confer with the employee they are accompanying but is not permitted to answer questions on the employee's behalf.

The outcome of this meeting may be to:

- Agree a date for implementation
- Agree variations of the request and a date of implementation
- Consider the application and, where not possible to agree, identify the reason(s) for not accepting the application (see 5.2)

5.2 *Giving proper consideration*

It is important for the Manager to properly consider the application and how it might be accommodated. To do this, it may be necessary for further investigations/discussions to take place following the meeting. See **Annex 3** for further guidance.

5.3 Confirming a request

Within 14 days of this meeting the acceptance should be confirmed in writing, along with details of the change to your terms and conditions of employment (see **Annex 4**).

It should be noted that any change agreed will constitute a permanent change to the employee's terms and conditions. If **mutually agreed**, changes can be on a temporary basis, for example for one term or for one academic year, either as a trial of new arrangements or because the employee does not wish to have a permanent change. This must be stated clearly in writing (see **Annex 5**).

Payroll must be informed of the duration of the change to terms and conditions. If the change is temporary, it is the responsibility of the Manager to notify payroll to change the terms & conditions again at the end of the agreed period.

5.4 Turning down a request for valid business reasons

It is acknowledged that there will always be reasons where, due to the needs of the school/CAT, the application cannot be accepted. However to be valid the reason has to be one provided for in section 80G of the Employment Rights Act 1996. These are as follows (see **Annex 3**):

- The burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to re-organise 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

In this event Managers are strongly advised to discuss the reason for rejection with their local Human Resources Advisor.

Where it is not possible to agree revised arrangements, a meeting should be arranged to discuss the reasons for the refusal and talk about other options. Within 14 days of the meeting, the Manager should write to the employee rejecting the proposal (see **Annex 6**).

The appropriate business grounds must be stated in the written reply. A couple of paragraphs will suffice, containing key facts of how the business case applies, ensuring that they are accurate and clearly relevant to the application in this case.

6.0 Procedural Issues

6.1 Timescales for application

Applications will be treated as made on the day they are received. Those sent by e-mail or fax will be treated as received on the day of transmission.

Where the person who would ordinarily consider the application is absent at the date of application an automatic extension applies. The 28 day period within which the meeting should take place will commence after 28 days, or from the date on which that individual returns to work, whichever is sooner. There are no other circumstances in which there can be an automatic extension, though an extension may be mutually agreed.

6.2 Further time is needed to consider the application

Throughout the process there may be a number of reasons why the timescales need to be extended. Time limits can be extended by written agreement between the Manager and member of staff. In this event a written record of the agreement reached must be kept which states the period of the extension and the date the extension is to end. It is vital that this record is kept: in the event of a dispute arising on timescales between employer and employee it may need to be produced at an employment Tribunal.

6.3 Withdrawal of application

The Manager may treat the application as having been withdrawn where the staff member has indicated either orally (in which case the Manager should confirm this in writing) or in writing that s/he is withdrawing the application.

The application may also be considered to have been withdrawn if the staff member fails to attend either the meeting with the Manager or the appeal meeting with the Chair, without reasonable cause. Sufficient information must be provided by the staff member to enable due consideration of the proposed contract variation; if the reasonable information necessary to enable a decision to be reached is not given, the Manager or the Chair may inform the staff member that the application has been deemed to have been withdrawn.

6.4 Applications from Principals / Headteachers / Director of the Trust

Principals / Headteachers would apply to the Chair of Governors, and any appeal would be heard by the Director of the Trust on behalf of the Trust Board. The Director of the Trust would apply to the Chair of the Trust Board, and any appeal would be heard by someone with HR expertise external to CAT and its governance structures

7.0 Appeals

7.1 Making an appeal

An employee will be given 14 days after the date on which they are notified of the decision to turn down their application to appeal in writing. The appeal should set out the grounds on which they are appealing using the form at **Annex 7**.

The Manager must arrange a meeting in order for the appeal to be heard. A written notification advising of the arrangements for the appeal hearing should be sent within 14 days after receiving the employee's written appeal. Meetings should be at a time and place convenient to both parties, and reasonable notice of the meeting should be given.

The employee has the right to be accompanied by a trade union representative or a work colleague of their choosing. The trade union or the work colleague has the right to address the meeting and confer with the employee they are accompanying but is not permitted to answer questions on the employee's behalf.

7.2 Hearing an appeal

The appeal should be heard by the Principal/Headteacher (where the initial decision was taken by another manager) or the Chair of Governors (or his/her delegate) in the case of school based staff where the original decision was taken by the Principal/Headteacher.

In the case of central CAT staff, the appeal will be heard by the Director of the Trust (if the original decision was taken by another manager) or the Chair of the Trust Board (or his/her delegate). It is recommended that HR advice is sought by the person hearing the appeal.

7.3 Communicating the appeal outcome

The outcome of the appeal should be communicated to the employee no more than 14 days after the hearing. If the appeal is upheld and the request to work flexibly agreed, the employee must be notified in writing documenting the change to terms and conditions (see 5.3 and **Annex 8**).

If the appeal is denied the person hearing the appeal must notify the employee in writing stating the grounds of refusal (see **Annex 9**).

8.0 Review

This policy will be reviewed once every three years, or when there any change to relevant legislation or statutory guidance.

Examples of Flexible Working

Every eligible CAT employee of The Co-operative Trust is entitled to make a flexible working request, and these will be considered against the business need. The key to making flexible working effective is to find the right arrangement for both the employee and the employer.

Flexible working, in its widest context, could involve one or more of the flexible working approaches set out below. However, it should be noted that not all of these are appropriate in school circumstances and this list is by no means exhaustive.

- **Part time working.** For example starting work later and finishing earlier in order to take care of children after school, or working three days per week instead of five.
- **Flexible hours, but still full time.** Employees may be required to work within essential periods (e.g. to provide reception cover at certain pre-set times) but then outside of the “core times” they may have flexibility in how they work the rest of the hours.
- **Job-sharing.** Typically two employees share one full-time post. The employees could work split days, split weeks or alternate weeks. The split need not be on a 50/50 basis, it could be 40/60 for example.
- **Staggered hours.** Employees in the same workplace have different start, finish and break times e.g. as a way of covering extended opening hours.
- **Annual hours.** This system calculates the hours which the employee works over a whole year. These are then split and worked as the demand dictates. For example, a School Business Manager could split the working hours to work full-time during term-time but then be available to work part-time during school holidays.
- **Compressed working hours.** Employees work their total agreed hours over fewer working days, for example a five day working week compressed into four days.
- **Shift-working.** Most commonly used where a 24-hour provision of service must be maintained, for example hospital and emergency service, residential establishments. May be appropriate for roles such as cleaning or catering.
- **Term-time working.** An employee is not required to work during the school holidays. Whilst this is ‘the norm’ for the majority of our employees, it could be considered under a request for flexible working from someone not currently working this pattern.
- **Ad hoc working from home.** Where roles permit this, agreement to work from home on an ad hoc basis.

Note: requests for ad hoc time off during term time should be dealt with under the Special Leave policy.

Right to request Flexible Working – Application Form

Section 1: Personal Details

Name:

Post Title:

School:

Note to the employee:

You can use this form to make an application to work flexibly under the right provided in law to help eligible employees balance work and life. Before completing this form, you should first read the policy and check that you are eligible to make a request.

You should note that it may take up to 14 weeks to consider a request before it can be implemented and possibly longer where difficulties arise. You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect.

It will help your Principal/Headteacher/Line Manager to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be valid. When completing sections 3 & 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues. Once you have completed the form, you should immediately forward it to your Principal/Headteacher/Line Manager (you might want to keep a copy for your own records). Your employer will then have 28 days after the day your application is received in which to arrange a meeting with you to discuss your request. If the request is granted, this will be a permanent change to your terms and conditions unless otherwise agreed.

Note to the Principal

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 have 28 days after the day you received this application in which to either agree to the request or arrange a meeting with your employee to discuss their request.

You should confirm receipt of this application using the attached confirmation slip.

Section 2: Application

To the Principal/Headteacher:

I would like to apply to work a flexible working pattern that is different to my current working pattern. I confirm I meet each of the eligibility criteria as follows:-

I have worked continuously as an employee of CAT for the last 26 weeks (not as an agency worker)

I have not made a request to work flexibly under this right during the past 12 months

If you are not sure whether you meet any of the criteria, please speak to your line manager in the first instance

Section 2a: Describe your current working pattern (days/hours/times worked)

--

Section 2b: Describe the working pattern you would like to work in future (days/hours/times worked)

--

(you may continue on a separate sheet if necessary)

Section 2c: I would like this working pattern to commence from:

Date	
-------------	--

Section 2d: Impact of the new working pattern

I think this change in my working pattern will affect my service delivery and colleagues as follows:-

--

Section 2e: Accommodating the new working pattern

I think the effect on service delivery and colleagues can be dealt with as follows:-

--

Signed

--

Date

--

Now pass this application to your Principal



Cut this slip off and return it to your employer in order to confirm your receipt of their application

Principal Confirmation of Receipt (to be completed and returned to employee)

Dear		Dept/Section	
-------------	--	---------------------	--

I confirm that I received your request to change your work pattern on:

Date	
-------------	--

I shall be arranging a meeting to discuss your application within 28 days following this date. In the meantime, you might want to consider whether you would like a fellow colleague to accompany you at the meeting.

From:	
--------------	--

Further guidance for Managers who are considering requests

Every eligible employee at The Co-operative Academy Trust has the right to request to work flexibly. That does not mean you have to accept every request but that you should give each request careful consideration on its own merits.

When considering requests Managers must consider the service impact and ensure that if they decline a request their reason/s for doing so fall into the acceptable business reasons (see 5.4). Just because you have been able to accommodate one person's request does not mean that you automatically have to grant any further requests.

In the context of the school environment some of the factors which will need to be considered may include:

- the continuity of education for pupils
- the school timetable
- the existing structure of the department or school e.g. the number of existing part-time staff
- ways in which the request could be accommodated e.g. is there a part-time employee who would welcome more hours to enable a colleague to reduce hours, is there another employee who would welcome a job-share arrangement, is it possible to recruit someone else?
- other staffing issues, e.g. vacancy levels
- impact of the change on other staff, e.g. consideration of communication and management issues if changing from one full-time class teacher in a primary class, to two part-time teachers. This will be both in respect of the two teachers and also any other staff in the classroom such as teaching assistants.
- whether it is necessary and possible to reallocate certain duties
- the cost to the school of making the change, whether this is one-off or ongoing, and how the costs 'measure up' against the benefits. The cost should be considered a 'burden' – this is subjective, but consideration should be given to how reasonable or unreasonable the additional cost is (if there is one) in the wider context of an academy's finances.

It is also important to show that requests have been **seriously considered**. It is recommended that advice is sought from your local HR Advisor if you are considering turning down a request.

Example

An administrative assistant requests a change from 5 days per week to 4 days per week. Having considered whether the role could be done in 4 days or some of the duties reallocated to existing staff within their current hours, and decided this is not possible, the request is turned down on the grounds that the Manager believes s/he will be unable to recruit to the remaining day.

In order to show that serious consideration has been given to the request the Manager would need to "test out" this belief and therefore:

- advertise internally to see whether other part-time staff might be interested in the additional hours
- advertise externally to determine interest
- discuss alternative options to explore a compromise if advertising is unsuccessful e.g. a 3 day/2 day split might be easier to accommodate, or compressed hours might be a possibility in limited circumstances

Annex 4

Template Letter: Request Agreed

ACADEMY ADDRESS

NAME
ADDRESS

DATE

Dear NAME

Re: Flexible working request

Following receipt of your request and our meeting on DATE, I am pleased to confirm that ACADEMY NAME is able to accommodate your [reduction to your working hours/a change to your working pattern/a change to your place of work].

May I remind you that these new working arrangements are offered on a permanent basis. You will also be unable to make another request for flexible working under the statutory procedure for 12 months from the date on which your application was made.

Your new working arrangements will take the following form:

Place of work: NAME

Hours of work: XXX

Days and times of work: XXXXXX

Actual salary: £XXXX [only applicable if reducing number of hours]

Please confirm your acceptance of this contract variation by signing both copies of the enclosed declaration and returning one copy to NAME. The second copy is for your retention.

All other terms and conditions remain the same.

Yours sincerely,

NAME
JOB TITLE

I agree to the contract variation as outlined above:

Signed Date

Template Letter: Temporary variations agreed on trial basis

ACADEMY ADDRESS

NAME
ADDRESS

DATE

Dear NAME

Re: Flexible working request – temporary change to terms and conditions

Following your meeting held on DATE to discuss your request for flexible working, I can confirm that I have agreed to the changes detailed below on a temporary basis from DATE.

I can confirm that your temporary working arrangements are [list days and hours and/or any other temporary arrangements agreed, and include new salary details etc. if applicable].

Either: We have agreed that these changes will be made on a temporary basis, and are expected to come to an end on DATE.

Or: The [x number of weeks] trial period will end on DATE. I will arrange a meeting with you shortly before the end of the trial period to discuss whether or not you wish and/or it is possible to make the changes permanent, once we have considered the impact of your request during the trial period. An integral part of this consideration will be to ensure that any flexible working arrangements agreed meet the business needs of the Academy, the operational needs of your area of work / department and do not impact negatively on work colleagues, pupils or on customer demands.

In all cases: It is important to understand that the above working pattern is agreed as a temporary variation to the terms and conditions of your employment, and at the end of the agreed period you will revert to your previous contractual working pattern – unless a further agreement is made. Please note a further request to work flexibly cannot be made for 12 months.

Please confirm your acceptance of this temporary contract variation by signing both copies of the enclosed declaration and returning one copy to NAME. The second copy is for your retention.

All other terms and conditions remain the same.

Yours sincerely,

NAME
JOB TITLE

I agree to the contract variation as outlined above:

Signed Date

Annex 6

Template Letter: Request Refused

ACADEMY ADDRESS

NAME
ADDRESS

DATE

Dear NAME

Re: Flexible Working Request

I refer to our meeting held on DATE at which we discussed your flexible working request which was received on DATE.

You requested [a reduction to your working hours/a change to your working pattern/a change to your place of work]. I have considered your flexible working application thoroughly against each of the statutory grounds outlined below (Employment Rights Act 1996 – Section 80G) and unfortunately I am unable to grant your request based on the grounds below [one or more of the following grounds – delete as applicable]:

- It would impose an unreasonable burden of additional costs because [explain costs and why they would be incurred]; and/or
- It would have a detrimental effect on our ability to meet our customer demands [explain why, e.g. because we would be unable to cover the service between 9.00 and 17.00]; and/or
- It would create unacceptable difficulties for us as we have been unable to make arrangements to reallocate the work amongst other staff [explain attempts considered]; and/or
- It would create unacceptable difficulties for us as we [would be/have been] unable to recruit additional staff [explain why]; and/or
- It would have a detrimental impact on operational performance [explain why]; and/or
- It would have a detrimental impact on the quality of service delivered [explain why]; and/or
- It would create unacceptable difficulties for the Academy/Department due to an insufficiency of work during the periods you proposed to work [explain why]; and /or
- It would be inappropriate due to planned structural changes [explain changes].

You are not entitled to make a further request for flexible working within 12 months of your original request.

You have the right to appeal against the decision to refuse your request for flexible working. If you wish to appeal, you should complete the right to request flexible working appeal form and send it to me within 14 days of receipt of this letter. Your flexible working request appeal form (annex 7) must set out the grounds on which you wish to appeal against this decision as set out above.

Yours sincerely

NAME
JOB TITLE

Right to request Flexible Working – Appeal Form

Name:

Post Title:

Academy:

Note to the Employee

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

Note to the Manager

This is a formal appeal made under the legal right to apply for flexible working. You have 14 days following your receipt of this form in which to arrange a meeting for your employee's appeal to be heard.

Dear

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

(Please continue on a blank sheet if necessary)

Signed

Date

Department

Template Letter: Request agreed after appeal

ACADEMY ADDRESS

NAME
ADDRESS

DATE

Dear NAME

Outcome of appeal for flexible working request

Following receipt of your application to [enter details of request] and the appeal hearing on DATE I am pleased to confirm that your appeal has been upheld and your application will be accommodated.

Your new working pattern will be [enter details of times, days etc] and will commence on DATE.

EITHER: Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment. You will also be unable to make another request for flexible working under the statutory procedure for 12 months from the date on which your application was made.

OR: As discussed, this is a temporary change to your terms and conditions of employment due to [enter reason why this is temporary] and you will revert to your substantive work pattern and terms and conditions of employment with effect from DATE.

All other terms and conditions remain the same [or give details if they do not e.g. if salary is changing due to increase / reduction on hours].

Please confirm your acceptance of this contract variation by signing both copies of the enclosed declaration and returning one copy to NAME. The second copy is for your retention.

Yours sincerely,

NAME
Title of person hearing the appeal

I agree to the contract variation as outlined above:

Signed Date

Annex 9

Template Letter: Appeal not upheld

ACADEMY ADDRESS

NAME
ADDRESS

DATE

Dear NAME

Re: Outcome of appeal for flexible working request

Following receipt of your application for a [reduction to your working hours/a change to your working pattern/a change to your place of work] and the appeal hearing on DATE, I have carefully considered your grounds for appeal and write to inform you that unfortunately I am unable to uphold your appeal.

This is for reason/s relating to: [one or more of the following grounds – delete as applicable]

- It would impose an unreasonable burden of additional costs because [explain costs and why they would be incurred]; and/or
- It would have a detrimental effect on our ability to meet our customer demands [explain why, e.g. because we would be unable to cover the service between 9.00 and 17.00]; and/or
- It would create unacceptable difficulties for us as we have been unable to make arrangements to reallocate the work amongst other staff [explain attempts considered]; and/or
- It would create unacceptable difficulties for us as we [would be/have been] unable to recruit additional staff [explain why]; and/or
- It would have a detrimental impact on operational performance [explain why]; and/or
- It would have a detrimental impact on the quality of service delivered [explain why]; and/or
- It would create unacceptable difficulties for the Academy/Department due to an insufficiency of work during the periods you proposed to work [explain why]; and /or
- It would be inappropriate due to planned structural changes [explain changes].

[Include any relevant details that came to light as part of the appeal meeting]

Your work arrangements will therefore remain as they are at present. May I remind you that you do not have the right to make another request for a further 12 months from the date your original request was submitted.

Please do not hesitate to contact me if you have any further queries.

Yours sincerely

NAME
Title of person hearing the appeal