



# **Flexible Working**

**Policy and Guidance for Managers and Employees  
of The Societas Trust**

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## 1.0 Introduction

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.

The government is committed to providing employees with better opportunities to balance work and family life and the right to request flexible working is part of a series of legal rights to enable staff to make formal requests to their employer.

As employers, Managers are required to comply with the statutory procedure laid down in respect of such requests. However Managers are increasingly seeing the benefits of accommodating flexible working arrangements. Under the new provision any eligible employee can apply to work flexibly for any reason, which may include the pursuit of studies, health issues, interests outside of work, preparation for retirement, voluntary and community activities. 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 through improved attendance levels and effective stress management.

The aim of this procedure is to ensure that managers and employees of The Societas Trust (The Trust / The Employer) understand their rights and responsibilities under the statutory framework and also to give guidance to managers in relation to requests. This will ensure that employees are able to exercise their statutory right to apply to work flexibly and that a fair and consistent approach is exercised in respect of all requests so that solutions support flexible working and at the same time protect or enhance service delivery.

## 2.0 Requests covered by the Statutory Provisions

Changes which relate to hours, times and place of work may be requested. There is no automatic right to work flexibly but managers have a duty to consider the request seriously, and issue a written response within specific timescales.

There is a right of appeal and subsequently employees may complain to an employment tribunal if an employer fails to follow the correct procedures within the stated timescales.

### **Who is covered by the provisions?**

Under provisions set out in the Children and Families Act 2014, every employee has the statutory right to ask to work flexible for any reason after 26 weeks continuous service. Previous service with other local government bodies cannot be counted. It does not apply to agency workers, consultants or self-employed contractors.

### **Who can apply under the provisions?**

#### **Employees must satisfy the below criteria:**

- have 26 weeks continuous service as an employee of the Trust
- not have made another application to work flexibly under the right during the past 12 months

Managers may however wish to consider requests from groups that don't meet these criteria as flexible working can bring business benefits as well as benefits to the employee.

## 3.0 Making an application

An application can be made at anytime. Applicants must however specify a start date for the proposed change giving their manager reasonable time to consider the proposal and implement it. This may take 12-14 weeks. The law requires that all requests, including appeals, must be considered and decided on including any appeal process, within a period of 3 months from the first receipt, unless the manager agrees to extend this period with the employee.

If an employee is making their request in relation to the Equality Act 2010, for example, as a reasonable adjustment for a disability, they should say so on their application.

Governing boards and Head Teachers determine staffing requirements on the basis of the academic year. It would therefore be helpful if requests could take account of this and are 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.

Applications should be made to the Head Teacher / Manager on the pro-forma attached, see appendix 5.

### **The following changes can be requested**

Examples of changes are to hours worked, times of work, location of work including home working. It is for the individual to specify their needs; the important point is for the request to be reasonable.

## **4.0 Considering applications**

### **The Initial Request**

A meeting should be held within 28 days of the receipt of the application to either:

- Discuss the details of the request and agree a date for implementation
- Discuss the details of the request and agree variations of the request and if agreed, a date of implementation
- Discuss the details of the request, consider the application and where not possible to agree identify the approved reason for not accepting the application

### **If agreed**

Within 14 days of this meeting the acceptance should be confirmed in writing, see appendix 3.

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. This must be stated clearly in writing and Pay and Conditions must be informed of the duration of the change. The meetings should be arranged at a time and place convenient to both parties.

Managers should inform the Pay and Conditions team of the changes.

### **Not agreed for valid business reasons**

It is acknowledged that there will always be reasons where, due to the needs of the Employer, 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:

- 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 Human Resources Consultant.

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, Managers must write to the employee rejecting the proposal, see appendix 4.

The appropriate business grounds must be stated in a written reply. A couple of paragraphs will suffice. The reply should contain key facts of how the business case applies, ensuring that they are accurate and clearly relevant to the application and should demonstrate why they apply in this case. For further information see appendix 2 "Further guidance when considering requests"

## 5.0 Procedural Issues

### Time scales for application

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

The Employer reserves the right to discount Saturdays, Sundays and normal holiday closure periods from the period of reckoning for response purposes. Similarly the Employer will exercise the right for an extension in response periods if the person who would normally consider the request is on leave or absent for reasons of training or sickness absence. Where the person who would ordinarily consider the application is absent because of annual leave, training or sick leave when the application is received the 28 day period will begin when they return to work or 28 days after the application is received, whichever is sooner.

### 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 employer and employee. 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.

### Withdrawal of application

An applicant may withdraw the application at any stage by putting this in writing to the Head Teacher / Manager.

### The employee has failed to attend the meeting

In the first instance the Head Teacher / Manager will try to re-arrange the meeting as soon as possible. However, applicants will be reminded that further failure to attend without reasonable cause will result in the application being treated as withdrawn.

Where an employee misses two meetings without reasonable cause the application may be treated as withdrawn.

If the employee misses a second meeting without reasonable explanation a letter should be sent stating that the application is treated as withdrawn and a copy kept.

## 6.0 Appeals

An employee has 14 days after the date on which they are notified of the decision to appeal in writing. The appeal should set out the grounds. Form see appendix 6 should be used.

The Head Teacher / Manager must arrange a meeting of the appeal committee of the governors to hear the appeal within 14 days after receiving the employee's written appeal. The Trust's Formal Meetings procedure must also be adhered to.

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.

If the employee's trade union representative or a work colleague cannot attend at the proposed time, the appeals committee will consider postponing the meeting to a time proposed by the employee provided this is also convenient to the Employer, and is within 5 days of the day that the initial meeting was proposed.

The chair of the appeals committee will notify the employee in writing stating of the outcome of the appeal within 14 days after the hearing.

## **Appendices**

The forms referred to in this document can be found attached:-

**Appendix 1: What is Flexible Working?**

**Appendix 2: Further Guidance When Considering Requests**

**Appendix 3: Model Letter: Request Agreed**

**Appendix 4: Model Letter: Request Refused**

**Appendix 5: Flexible Working Application Form**

**Appendix 6: Flexible Working Appeal Form**

**Appendix 7: Flowchart**

**Appendix 8: Right to request time to train**

**Appendix 9: Model letter: Request time to train**

## WHAT IS FLEXIBLE WORKING?

There are many different forms of flexible working, the following are some examples but it should be noted that not all of these are appropriate in school circumstances.

- **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.
- **Flexi-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.
- **Term-time working.** An employee is not required to work during the school holidays.
- **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.

## FURTHER GUIDANCE WHEN CONSIDERING REQUESTS.

When considering requests Head Teachers, Line Managers and Governing Boards must consider the service impact and ensure that if they decline a request made under the statutory provisions, their reason/s for doing so fall into the acceptable business reasons as outlined at 2.7.

If more than one request to work flexibly from different employees is received and it is not possible to grant all of the requests, managers should consider each case on its merits looking at the business case put forward and the possible impact of a refusal. The manager should also discuss the matter with each of the employees concerned to see if there is any room for adjustment or compromise before coming to a decision.

Managers are not required to make value judgments about the most deserving request, if no compromise or accommodation can be made, requests should normally be considered in the order they are received, and having considered and approved the one request the resulting change in business context may be taken into account when considering the subsequent requests received.

If an employer is unable to approve a request where a number of other employees are already working flexibly, because any further flexible working arrangement will impact adversely upon the business, it would be good practice to consider calling for volunteers from existing flexible working employees to change their contracts back to other arrangements therefore granting new requests to work flexibly.

An employer should also be careful not to directly or indirectly discriminate against employees.

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 necessary 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 to reallocate certain duties.

It is also important to show that requests have been **seriously considered**.

**Example.** An administrative assistant requests a change from 5 days per week to 4 days per week but is turned down on the grounds that the Head Teacher believes he/she will be unable to recruit to the remaining day. In order to show that serious consideration has been given to the request the Head Teacher would need to “test out” this belief. The Head Teacher could 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

**Model Letter: Request Agreed**

Dear

Following receipt of your application to (enter details of request) and our meeting on (date of meeting)

EITHER: I am pleased to confirm that I am able to accommodate your application.

OR: I am unable to accommodate your original application. However I am able to offer the alternative pattern which we discussed and which you agreed would be suitable to you.

Your new working pattern will be (enter details of times, days etc) and will commence on (enter date).

EITHER: Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment.

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 (enter date).

Yours sincerely

Head Teacher / Manager

**Model Letter: Request Refused**

Dear

Following receipt of your application to (enter details of application) and our meeting on (date of meeting), I have carefully considered your request and write to inform you that unfortunately I am unable to accommodate your request.

The reason/s for this is/are (enter details of why the application cannot be granted, based on the valid business reasons as at xx of the policy. Include details also as to why other patterns that you may have discussed were not agreed as suitable)

**(NB Please ensure that you have first discussed your reason for rejection with your HR Advisor)**

If you are unhappy with this decision you have the right of appeal. If you wish to appeal you should do so in writing by setting out the grounds for your appeal on the Flexible Working Appeal Form (Appendix 6). You must appeal within 14 days of receiving this letter. Your completed appeal form should be sent to myself.

Yours sincerely

Head Teacher / Manager

## THE RIGHT TO APPLY TO WORK FLEXIBLY - APPLICATION FORM

### Section 1: Personal Details

**Name:**

**Post Title:**

**Setting / Dept.:**

**Section:**

#### Note to the employee:

You can use this form to make an application to work flexibly under the right provided in law. Before completing this form, you should first read the policy and check that you are eligible to make a request. The policy is available on the Trust's website ([www.societastrust.org.uk](http://www.societastrust.org.uk)) under Key Information / Policies and Procedures or via your Line Manager / Head Teacher.

You should note that under the right it may take up to 3 months 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 Manager / Head Teacher 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 Manager / Head Teacher (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 Manager / Head Teacher

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.

**To the Manager / Head Teacher:**

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided under section 80F of the Employment Rights Act 1996. I confirm I meet each of the eligibility criteria as follows:-

I have worked continuously as an employee of The Societas Trust (The Trust / The Employer) for the last 26 weeks

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

I am making this request in relation to the Equality Act (2010)

If you are not sure whether you meet any of the criteria contact your Trade Union or your Manager / Head Teacher.

**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	
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**Section 3: Impact of the new working pattern**  
I think this change in my working pattern will affect my service delivery and colleagues as follows:-

**Section 4: Accommodating the new working pattern**  
I think the effect on service delivery and colleagues can be dealt with as follows:-

<b>Signed</b>		<b>Date</b>	
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**Now pass this application to your Manager / Head Teacher**



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

**Manager / Head Teacher's Confirmation of Receipt** (to be completed and returned to employee)

<b>Dear</b>		<b>Setting / Dept.</b>	
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I confirm that I received your request to change your work pattern on:

<b>Date</b>	
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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.

<b>From:</b>	
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FLEXIBLE WORKING APPEAL FORM

<b>Name:</b>	
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<b>Setting / Dept.:</b>	
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<b>Section:</b>	
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**Note to the Employee**

If your application has been refused, you may appeal against your Manager \ Head Teacher's 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 days of receiving written notice that your application for flexible working has been turned down.

**Note to the Manager \ Head Teacher**

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 of a Committee of the Governors with your employee to discuss their appeal.

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

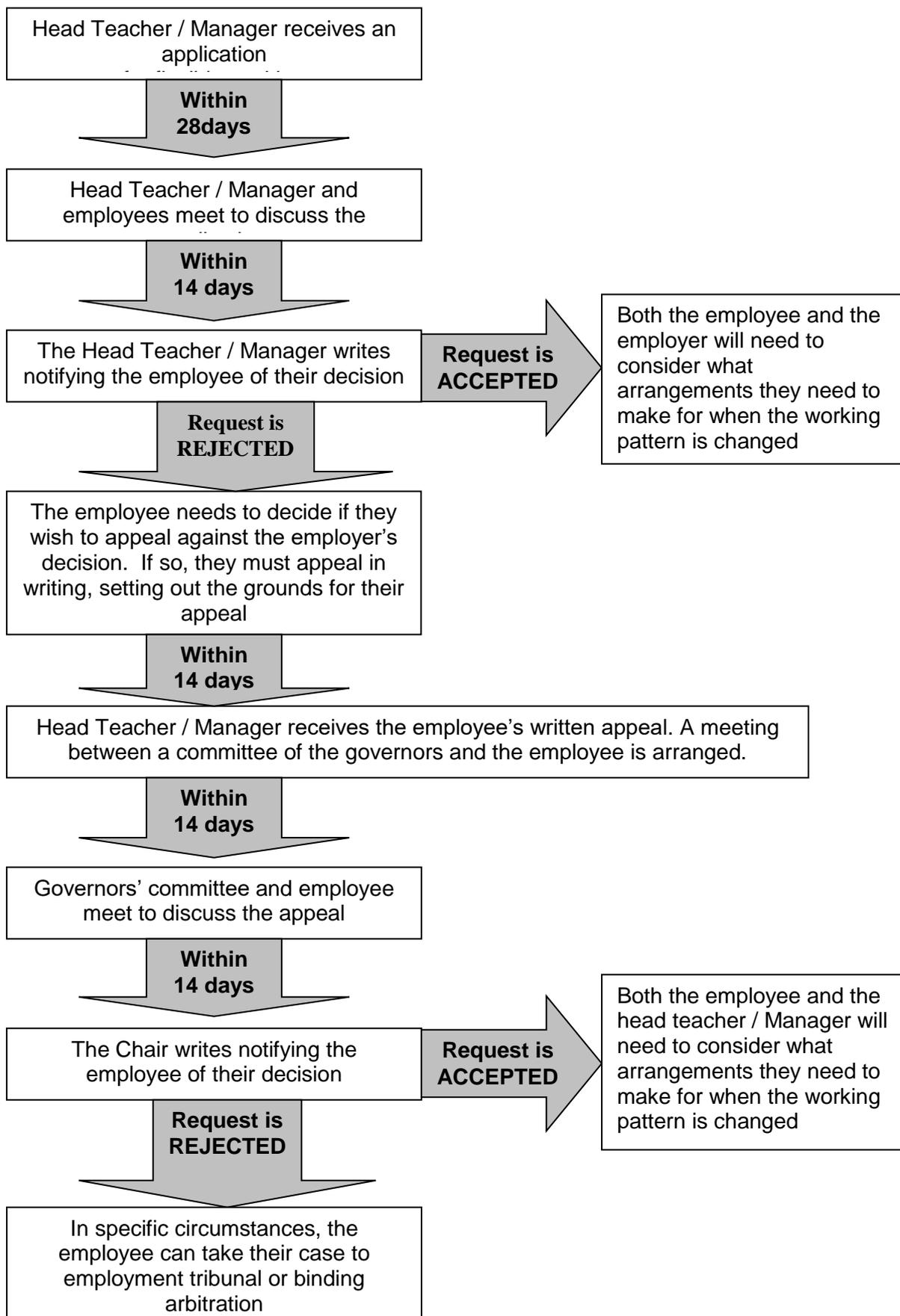
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(Please continue on a blank sheet if necessary)

<b>Signed</b>		<b>Date</b>	
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<b>Setting / Dept.</b>	
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**FLOWCHART FOR REQUESTS**



## RIGHT TO REQUEST TIME TO TRAIN

### **Employee eligibility:**

The individual must:

- be an employee
- have 26 weeks continuous service

### **Payment for time spent training:**

Employees have the right to request that you allow them time to undertake training. They do not have the right to be paid for the time spent training when you agree to their request.

### **Making a request:**

In order for the request to be valid and covered by the legislation, it must be submitted in writing. A template letter is provided at appendix 9 for convenience. The request must contain the following information:

- a statement that it is an “application under section 63D Employment Rights Act 1996”
- the subject matter of the proposed training or study
- where and when the training or study would take place
- who would provide or supervise it
- what qualification it would lead to (if any)
- how the employee thinks the training or study would improve effectiveness in your organisation (Manager) and the performance of the organisation (Manager)
- the date of the application
- the date and method (e.g. email or letter) that the employee’s last application (if any) was submitted

### **Frequency of requests:**

- You are only required to consider one request from an employee in any twelve month period.
- There is no limit on the time – or amount of study or training – that an employee can request. Employees can ask to undertake more than one piece of training in a single request e.g. where they would like to improve their literacy and numeracy skills in addition to another piece of training.

### **Timescales and process for considering the request:**

- The same as those for considering statutory requests for flexible working (see 2.7 to 2.9 and Flowchart at Appendix 7)

### **Valid reasons to refuse a request:**

(Head Teachers / Managers are strongly advised to discuss reasons for rejection with their HR Officer)

These are the same as those when considering statutory requests for flexible working PLUS:

- The proposed study or training would not improve the employee’s effectiveness in the business(Manager)
- The proposed study or training would not improve the performance of the business (Manager)

**Model Letter: Request for Time to Train**

**Name & Home Address**

**Date of application.**

**Dear** \_\_\_\_\_

I wish to make an application to request time to train under section 63D of the Employment Rights Act 1996.

The subject matter of the proposed training/study is.....  
and would take place at .....(location), from.....(start date) to.....(end date).  
I would be undertaking training/study on the following days/times..... (insert pattern of training).

The training/study would be provided by/supervised by..... (insert name of provider/supervisor). The training/study would lead to ..... (title of qualification if applicable).

I think that the training/study would improve my effectiveness by..... (explain how this would be improved).

I also think that the training/study would improve the organisations performance by..... (explain how this would be improved).

The date and method (e.g. email or letter) that my last application was submitted was.....OR I have not previously submitted an application to request time to train.

Yours sincerely

Name  
Job Title