

Flexible Working Policy & Procedure

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Date: September 2019

Last reviewed on:

Next review due by:

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FLEXIBLE WORKING POLICY & PROCEDURE

1 INTRODUCTION

- 1.1 From June 2014, every employee has the statutory right to ask to work flexibly after 26 weeks continuous employment service. Employers have a duty to give careful consideration to all requests received.
- 1.2 Employees should prepare their application, in advance of when they would like the desired contracted change to take effect.
- 1.3 If approved, any variation to an employee's contract of employment (such as the number of hours worked, pattern of attendance etc.) will represent a permanent change and the employee will have no automatic right to revert back to any previous arrangements, unless the application specifically seeks a variation for a specified time period only.
- 1.4 This policy is based on the provisions set out in the Employment Rights Act 1996 as amended. The policy is intended to help managers follow the appropriate steps when dealing with requests from employees seeking changes to their attendance arrangements.
- 1.5 This policy has been prepared taking account of legislation requirements and follows best practice by enabling the Trust to demonstrate a flexible working policy and procedure which is fair, equitable and transparent. Accordingly, the policy has been subject to an Equality Impact Assessment and is suitable for publication under the Freedom of Information Act 2000.
- 1.6 This Policy does not provide exhaustive and detailed guidance in respect of the Flexible Working Regulations. Therefore, staff and managers should seek advice from the HR Department at all stages of the process.

2 FLEXIBLE WORKING

- 2.1 Examples of flexible working include: part-time working, flexitime, staggered hours, compressed working hours, job sharing, and time off in lieu, term time only working, annualised hours, zero hours and working from home. This is not an exhaustive list.

3 ELIGIBILITY

- 3.1 To make an application under the Flexible Working Regulations employees must meet certain criteria:
 - have worked for London South East Academies Trust (or have transferred to LSEAT from another employer where they have worked) continuously for at least 26 weeks, at the date the application is made.
 - not have made another application, to work flexibly under the statutory provision during the previous 12 months. Each year runs from the date on which any application is made. This is regardless of whether a previous application was made in respect of a different caring responsibility.

4 APPLICATION PROCEDURE

- 4.1 Before making an application to work flexibly that will result in working fewer hours, the employee should carefully consider any effect on their pay, pension contributions, and any other benefits. The employee is encouraged to seek independent advice from their pension provider about any possible implications relating to pension arrangements.
- 4.2 The employee must submit their request in writing. The application must include the following:
 - the date of application

- set out the employee's proposal and explain what effect the employee thinks this will have on the organisation and how this might be accommodated.
 - Cover will not always be required as a result of a move to flexible working. However, any necessary cover arrangements need to be organised at the start of any part-time or flexible arrangement. It is helpful for the employee to consider this when making their application and to be ready to discuss ideas with their line manager at the meeting.
 - include the date it is proposed the change should become effective, ensuring that the manager has reasonable time to consider the proposal and (if applicable) to implement it.
 - indicate whether a previous application has been made and if so, the date of that previous request.
- 4.3 The Head of School will review the request, focusing on the job, the duties to be carried out, the hours to be covered, and how these can be accommodated. In making the decision on whether the option proposed would be feasible, the manager will take into account a range of factors such as the different elements of the job, the size of the workload, the need for continuity, any specialist skills or qualifications that may be required. The manager will also take into account the wider effects of the proposal such as cost, staffing, service delivery, performance, and quality implications, as well the impact of the new working arrangement on other employees and on any structural changes planned in the department or the Trust.
- 4.4 On receipt of an application, the manager should arrange a meeting with the employee to discuss the request within 28 days of receiving the application. The meeting must be held at an appropriate time and place, convenient to both parties and an appropriate representative from the HR department should be in attendance.
- 4.5 For the avoidance of doubt, the 28-day period commences on the day on which the manager receives the application rather than the day on which the application is dated.
- 4.6 A Trade Union representative or work place colleague may accompany the employee to the meeting. The colleague may address the meeting and confer with the employee during the meeting, but may not answer questions on the employee's behalf.
- 4.7 If the Trade Union representative is unable to attend the meeting, the employee may request to re-arrange the meeting, for a date within seven days of the original meeting date, ensuring that the time is convenient to all parties. If this is not possible the employee should consider inviting an alternative colleague.
- 4.8 If the employee fails to attend the meeting without notification they should contact their manager as soon as possible to explain their absence and to allow the meeting to be rearranged at the next mutually convenient time. Where an employee fails to attend the meeting more than once and does not provide a reasonable explanation, the manager may treat the application as having been withdrawn. In such circumstances the manager should write to the employee confirming that the application is considered withdrawn.
- 4.9 The meeting should provide the opportunity for both parties to discuss the working pattern in depth and consider how it might be accommodated. If the original proposal cannot be accommodated, the meeting provides the opportunity to consider if an alternative working arrangement may be appropriate. It may also be appropriate for both parties to agree that the new working pattern will take place for an agreed trial period.
- 4.10 The trial period may be extended in the event of any unforeseen circumstances e.g. sickness absence etc. The HR department will be able to provide managers

with advice and guidance in regard to trial period extensions and when these should be considered. Trial periods are not intended to imply confirmation that the temporary arrangement will become permanent.

5 THE DECISION

- 5.1 The Head of School should discuss the Application with their HR Business Partner prior to making their decision. The manager should notify the employee of their decision as soon as is reasonably possible (usually within 10 working days).
- 5.2 If the employee's application is accepted the notification must include a description of the new working pattern and state the date from which the new working pattern will take effect.
- 5.3 In the event that employee's hours are reduced the manager and employee should consider how this will impact on the amount of work and consider, if appropriate, the removal from the job description/role profile of certain elements of the post in order to ensure it can be effectively performed part-time.
- 5.4 If the employee's application is not accepted the notification must:
 - state the business grounds for refusing the application
 - provide sufficient explanation as to why the business ground/s for refusal apply in the circumstances.
- 5.5 The explanation should include the key facts about why the requested working pattern cannot be accommodated and should be accurate and clearly relevant to the business ground.
- 5.6 If the manager requires more time to reach a decision, they must obtain the employee's written agreement for an extension to the 10 working days notification period specifying the date on which the extension is to end. This should not normally exceed a further 10 working days period.
- 5.7 If a manager is uncertain about the impact a request for flexible working will have on the school, they may allow the employee to work under the revised arrangement for a trial period to assess if the arrangement would have any adverse effect on the business. In such cases the manager must clearly indicate:
 - that their agreement to the employee's request for flexible working is subject to a successful outcome of the trial period.
 - the length of the trial period (usually between 4-6 weeks up to a maximum of 3 months).
 - that the change to the employee's contract of employment during the period is a temporary change only.
 - the date the employee would revert to their previous working arrangements, in the event that the manager subsequently declined their request for flexible working.

6 BUSINESS GROUNDS FOR REFUSING A REQUEST

- 6.1 Managers may refuse an application for flexible working where there is a clear business reason for them to do so. Managers should discuss this with the HR department.
- 6.2 Business ground/s for refusing may include:
 - additional costs.
 - any detrimental effect on the department's/team's/colleague's ability to meet its targets or objectives.
 - inability to re-organise work among existing staff.

- inability to recruit additional staff.
- any detrimental impact on quality.
- any detrimental impact on performance.
- insufficiency of work during the periods the employee proposes to work.
- any planned structural changes.

7 THE APPEAL

- 7.1 It will not be possible for a manager to agree to every request for flexible working, due to the business needs of the organisation as outlined above. In such circumstances the reasoning for the refusal of the request must be quite clear. There will, however, be circumstances where the employee may believe that their request has not been properly considered and they may wish to appeal against the decision.
- 7.2 The employee must submit their appeal in writing within 10 working days of the date that they receive written notification that their request has been declined. This should be addressed to the Executive Head Teacher.
- 7.3 The employee must set out the grounds upon which they are appealing and the appeal must be dated.
- 7.4 The appeal meeting should take within 10 working days of receiving the employee's appeal and should be heard by a senior post-holder who was not involved in the original request/decision.
- 7.5 The senior post-holder must inform the employee of the outcome of the appeal in writing within a reasonable timeframe, following the meeting, which would not normally exceed 10 working days.
- 7.6 Written notification of the appeal outcome constitutes the Trust's final decision.

8 WITHDRAWN APPLICATIONS

- 8.1 Where an employee decides to withdraw their application, they should notify their manager in writing as soon as possible. An employee who withdraws their application will not have a statutory entitlement to make another application for 12 months from the date their application was made.
- 8.2 A manager who is informed verbally by the employee that they wish to withdraw their application, but does not subsequently receive written confirmation, should contact the employee to confirm their intentions. If the manager does not subsequently receive written confirmation, the manager will confirm to the employee that they consider the application to be withdrawn.

Note to the Employee

You can use this form to make an application to work flexibly under the right provided in law.

You should note that under your right to apply for flexible working 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 your Head of School well in advance of the date you wish the request to take effect.

It will help the school 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, on your colleagues and within your department generally.

Once you have completed the form, you should immediately forward it to your Head of School. Your manager will then have 28 days after the day your application is received in which to arrange a meeting with you to discuss your request.

Please be advised that, if your request is granted, this will normally be a permanent change to your terms and conditions unless otherwise agreed i.e. where a trial period is agreed.

Section A is to be completed by the Employee and **Section B** by the respective Head of School.

Section A: Employee details

Employee's Name	
Job Title:	
School:	
Head of School:	

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 organisation for the last 26 weeks.
- I have not made a request to work flexibly under this right during the past 12 months.

Date of any previous request to work flexibly under this right:

Please describe your current working arrangements (days/hours/times worked).

Please describe your requested working arrangements (days/hours/times worked) and the impact this will have (if applicable) on your salary, annual leave entitlement and any other benefits.

Please detail any issues, problems or benefits that may arise from your proposal with respect to the service, your department, your colleagues or students.

--

How could these be addressed?

--

Date you wish the arrangement to commence:

--

I acknowledge that, if my application is authorised, this may impact on my salary, annual leave and other benefits, which I am fully aware will be effective from the date the new arrangement will commence.

Employee's Signature..... Date

Section B: Head of School

Please comment on benefits that may be gained by agreeing to the flexible working request:

--

Please identify operational, financial, staffing or service related problems that may arise if this request is approved:

--

Please identify ways in which the problems detailed above may be overcome to enable the original request to be approved:

--

Do you recommend approval of the request?

YES/NO

Name:

Signature:

Date:

Section C: Executive Headteacher

Approval granted	<p><i>Please tick appropriate box</i></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
If approval was granted, the following working arrangements have been approved:	
The new working arrangements will commence on:	
Will trial period be required?	<p><i>Please tick appropriate box</i></p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
Where applicable, the trial period will last for:	
Reasons for non approval (HR input)	<p><i>Please tick appropriate box</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Burden on additional costs <input type="checkbox"/> Detrimental effect on ability to meet customer demand <input type="checkbox"/> Inability to re-organise work among existing staff <input type="checkbox"/> Inability to recruit additional staff <input type="checkbox"/> Detrimental impact on quality <input type="checkbox"/> Detrimental impact on performance <input type="checkbox"/> Insufficiency of work during the periods the employee proposes to work <input type="checkbox"/> Planned structural changes
Comments:	

Signature: Date:
Head of School

Signature: Date:
Executive Head Teacher

The following provides definitions of some of the terms used within the Guidelines. In respect of working patterns, the list is by no means exhaustive and Managers should always seek advice from HR.

Annual hours - a pattern of attendance where the length of the working week varies from time to time according to business needs. For example, an employee may work shorter hours during periods of less business activity but be expected to work longer hours at other, busier, times without payment of overtime.

Compressed hours - a pattern of attendance involving working full-time hours but fewer days e.g. performing a standard 37 hours job over 4 days rather than 5.

Flexitime - a pattern of attendance where the employee has some degree of choice over their start and finish times but are expected to be in attendance for a core period each day.

Job sharing - a full-time job split between two people who agree the balance of hours between them and receive a proportionate share of salary and benefits. The employees share the workload, decision making and problem solving associated with the job.

Part time - a pattern of attendance where normal hours, calculated on a weekly basis or an average over a period of employment of up to one year, are less than that of a comparable full-time worker.

Staggered hours - a pattern of attendance similar to flexitime but where employees in the same workplace have different start, finish and rest period times to provide cover over a period longer than the standard 09.00 hours to 17.00 hours.

Term time only working - a pattern of attendance where the employee attends work during college term times and does not attend during trust holidays. Salary and benefits are calculated pro-rata according to the number of weeks per year that the employee will be attending work.

Time off in lieu - a pattern of attendance whereby the employee works longer than standard hours on days of attendance and agrees with their manager arrangements for taking the corresponding number of hours as time off in lieu on another occasion(s).

Working from home - an arrangement whereby the employee works some (but not usually all) of their hours from home. Such an arrangement carries health and safety obligations and LSEAT would be required to carry out a health and safety assessment on the risks associated with the work being conducted from the employee's home.

Zero hours - a type of contract under which LSEAT does not guarantee the employee a fixed number of hours per week. Rather, the employee is expected to be on-call and receive compensation only for hours worked

Please note that annual hours, compressed hours, zero hours and time off in lieu arrangements may carry implications under the Working Time Regulations. These Regulations aim to protect the health and safety of employees by preventing excessive working hours.

[DATE]

PRIVATE & CONFIDENTIAL

[NAME] [ADDRESS 1]
[TOWN] [COUNTY]
[POST CODE]

Dear [NAME]

Use this for an employee who fails to attend a meeting – delete if not applicable

Further to the meeting which was scheduled for the XXX at XXXX to discuss your flexible working application. I note you were unable to attend.

I confirm that I have given your application careful consideration.

This is the second occasion you have failed without reasonable explanation to attend a pre- booked meeting to discuss your request. Therefore, I confirm that the College now considers that your application for flexible working as withdrawn.

Or/

Use this for an employee who wishes to withdraw their application – delete if not applicable

I write further to our recent conversation in which you verbally confirmed to me that you no longer wished to proceed with your flexible working application. Although you have not followed this up in writing, I believe you were resolute in your decision and therefore I confirm that the Trust considers that your application to be formally withdrawn.

Please note that in accordance with the Trust's Flexible Working Policy and Procedure you will not be entitled to make another request for flexible working under the statutory scheme for a period of 12 months from the date of your original application.

Yours sincerely

NAME OF HEAD OF SCHOOL