

EAST RENFREWSHIRE LNCT AGREEMENT
FLEXIBLE WORKING POLICY FOR EMPLOYEES COVERED BY SNCT CONDITIONS OF SERVICE

1. INTRODUCTION

East Renfrewshire Council's Education Department acknowledges the benefits of building upon existing working arrangements and provisions for teachers and SNCT employees within a formal Flexible Working policy. Effective policy provision, which recognises the needs of both employer and employee:

- is key to the delivery of a quality service provision for our young people,
- makes a positive contribution to increased morale, and
- enhances the retention and recruitment of skilled and experienced SNCT employees by the Education Department.

- 1.1.** The purpose of this agreement is to provide a framework for the management and administration of flexible working requests and to ensure that all applications to work flexibly are given due consideration within a transparent process.
- 1.2.** This agreement is without prejudice to all relevant employment legislation including the Employment Rights Act 1996, the Equality Act 2010 and the Employment Relations (Flexible Working) Act 2023.
- 1.3.** In addition to the legislation and working in tandem with this Flexible Working Policy are the existing family friendly LNCT agreements, as well as the provisions within the SNCT Conditions of Service all of which offer the opportunity for employees to support work life balance.

2. ELIGIBILITY

- 2.1.** Requests for consideration of flexible working can be made by employees from their first day of employment. There is no continuous service requirement to make a flexible working request. Employees can make a flexible working request twice in any calendar year.
- 2.2.** Eligibility for flexible working is not restricted to those with caring responsibilities. The right to apply for flexible working is extended to all employees covered by SNCT conditions of service. However, it may be necessary for priority to be given to those

employees that would be classed as having a protected characteristic as defined by the Equality Act 2010.

- 2.3. There is no *absolute right* to be granted flexible working. There is however a specific statutory duty on an employer to give full and proper consideration to any request made by an eligible employee. Teaching is a front line service and the quality of education provision must be paramount when considering any application to work flexibly. The Council reserves the right to reject a request for flexible working for one or more of the business reasons listed in Section 8.11.

3. FLEXIBLE WORKING OPTIONS

- 3.1 The right to request flexible working means that all employees can make a reasonable request to change the hours they work and/or change the times when they are required to work. Although flexible working legislation provides a wide variety of options, due to the nature of the role and responsibilities of those covered by SNCT conditions of service, and in the interest of maintaining efficient levels of service delivery, not all models of flexible working will be feasible or acceptable. The main options available to employees covered by SNCT conditions of service are to request consideration of reduced hours/increased hours/part-time working or job sharing. Requests for sabbaticals and career breaks should be made under LNCT 37 and LNCT 38 respectively.
- 3.2 Part-time working is defined as any situation where an employee works fewer hours than a standard working week, usually 35 hours or 1.0 FTE.
- 3.3 A job share arrangement is where two individuals on the same grade carry out the full range of duties and responsibilities associated with one full time post with the terms and conditions of service shared on a pro-rata basis. The arrangement is only available where there is the ability within the role for all duties to be equally shared.

A post may be shared by two individuals on a split week basis giving each teacher a pro rata share of the hours of the post. This can be either 2.5 days each per week, or 2 day/ 3 day split on alternative weeks.

A teacher may not hold two job share contracts without the prior consent of their employer.

4. PROCEDURES FOR MAKING A FLEXIBLE WORKING REQUEST

- 4.1. All requests for flexible working from an employee under the Employment Relations (Flexible Working) Act 2023 must be in writing. All requests must be made to the Head Teacher, Head of Establishment or equivalent Line Manager, (if the individual making the request does not work in a school setting). The request must be made on the appropriate application form (Appendix 1), must contain a statement that it is a statutory request and include the date of any previous application for flexible working.

Where the request is for part time, job-share, or reduced/increased hours it must also detail the pattern requested, detailing daily and weekly working hours. In addition, where the request is because an employee is covered by the Equality Act 2010, this should be made clear in the application.

- 4.2. Applications must clearly state when the new working arrangement is requested to be effective from. The date of commencement for the requested revised work pattern must be at least 12 weeks in advance (exclusive of annual leave and school closure days) from the date of submission to allow sufficient time for the application to be considered, and for any practical arrangements to be implemented should the application be approved.
- 4.3. On receipt of an application to work flexibly, the Head Teacher, Head of Establishment or Line Manager will arrange a meeting with the applicant. The meeting should be arranged sufficiently far in advance to allow the applicant the opportunity to be accompanied by a trade union representative, but in any event will be held no more than 10 working days from receipt of the application. The applicant should be informed of their right to have trade union representation at this meeting, if they so wish, however it is their responsibility to ensure availability of their chosen representative.
- 4.4. The purpose of this meeting is to discuss the employee's reasons for the application to work flexibly, to explore the potential impact on other employees and the resultant ability of the school to meet pupil needs. The meeting will be used to explore strategies to address possible service requirements and any potential variation to the requested work pattern. The specific terms and conditions associated with the flexible working request will also be explained.

5. CONSIDERATIONS FOR THE APPLICANT

- 5.1. When submitting an application for flexible working, the applicant must give careful consideration to the following:
 - Acceptance of a flexible working application will be a **permanent** change to an employee's contract of employment. The applicant will have no legal right to revert back to his / her former contractual hours of work.
 - Terms and conditions of employment will be affected on a pro-rata basis e.g. salary, leave entitlement and accrual of pension.
 - An application for job share can only be granted where the Education Department is able to successfully recruit to both parts of the job.
 - Employees will be expected to continue to fulfil contractual obligations in their current substantive post until arrangements have been finalised to ensure the whole post is being covered.
 - Approved flexible working requests will normally commence at the beginning of the academic year or calendar year for those employees who are not school

based. However, employees who are returning from maternity leave may start flexible working upon return from maternity leave, if the required process has been followed and their application for flexible working has been approved.

- An employee cannot hold two permanent posts whilst working flexibly i.e. two permanent job-sharing posts, or two part-time posts without the prior approval of the Education Senior Manager (Developing People).

6. CONSIDERATIONS FOR THE HEAD TEACHER

6.1. In arriving at a decision on the proposal the Head Teacher, Head of Establishment or Line Manager, following consultation with HR Education Business Support, should consider the request carefully looking at the benefits of the requested changes in working conditions for the employee and the Service, while weighing these against any potential, adverse effects of implementing the changes. In particular, the Head Teacher should take the following into account:

- The impact any change in working pattern may have on the school/establishment, service provision, the quality of education provision for children and young people or the priorities of the Education Department.
- The current operating hours of the service and the impact the proposed changes may have on the ability of the service to meet required demands.
- The amount of work available during the proposed hours/pattern of work to justify any change.
- Any impact on the workload of other colleagues and the ability of the school/establishment/Education Department to redistribute any resultant excess work without negatively impacting on the workload of others, paying particular attention to the Working Time Agreement for the establishment.
- Any impact on existing work patterns or arrangements for others and the ability of the school/establishment/Education Department to accommodate the work in another way.
- The number of teachers/employees already accommodated under flexible working arrangements and the resultant impact on the continuity of education for children and young people.
- The continuity and consistency in the management of SNCT employees and specific work tasks and areas.
- Whether any other creative alternative work pattern options are suitable.
- The cost of the proposal, including any costs associated with recruitment, training, increased supervision or administration and any required alterations to timetabling, buildings or accommodation.
- The ability to recruit and retain teachers and other key SNCT employees.

- The impact on an employee's career development.
- Any planned organisational changes.
- Whether the applicant is considered as having a disability as defined by the Equality Act 2010 or has a disability by association and thus would benefit from flexible working as a reasonable adjustment.

7. TIMESCALES

- 7.1.** Timescales referred to herein may be amended with the agreement of both parties to accommodate, for example, school holidays or closures, sickness or family emergency.
- 7.2.** An applicant may submit two statutory requests for flexible working in any 12-month period. The application will detail the proposed start date of the flexible working pattern requested which shall be at least 12 weeks (exclusive of annual leave and school closure days) in advance of the date of its submission.
- 7.3.** A Head Teacher, Head of Establishment or Line Manager, will acknowledge a request for flexible working within 5 working days of its receipt.
- 7.4.** A meeting between the Head Teacher, Head of Establishment or Line Manager, the applicant and their representative will be held within 10 working days of receipt of the request for flexible working.
- 7.5.** The Head Teacher, Head of Establishment or Line Manager, will confirm in writing their decision on the request for consideration of flexible working within 5 working days of the meeting.
- 7.6.** It is important to be aware that under the Employment Relations (Flexible Working) Act 2023 a decision must be made about a flexible working request within a 2-month timescale (this timescale can only be extended if the employee agrees to the extension). The timescale for dealing with a request will begin with the date of receipt of the application and end when a decision is made in terms of either Section 8 or Section 9. The timescales outlined in this agreement detail the maximum time to deal with each stage. Head Teachers, Heads of Establishment or Line Managers, are encouraged to deal with flexible working applications as soon as possible after their receipt.

8. FLEXIBLE WORKING APPLICATION OUTCOMES

The decision made by the Head Teacher, Head of Establishment or Line Manager may take one of the following forms:

Application Approved

- 8.1** The Head Teacher, Head of Establishment or Line Manager will respond in writing approving the request for flexible working within 5 working days of the meeting with the applicant and their representative. The letter will provide detail of the intended start date and revised working hours and work pattern, taking into account the requested start date of the applicant as well as the exigencies of the service.
- 8.2** The Head Teacher, Head of Establishment or Line Manager will then submit a completed contract change request form and upload their signed outcome letter to the employee together with the employee's authorised flexible working application form.
- 8.3** A revised statement of particulars will be issued by HR Direct to the applicant within 30 working days of the approval, following receipt of the relevant information detailed at 8.2.

Variation to Flexible Working Request

- 8.4** A Head Teacher, Head of Establishment or Line Manager, upon refusing an applicant's original request to work flexibly, may propose a variation to the original request. This variation should be discussed with the applicant at the meeting held in terms of paragraph 4.3. Any variation to the original request must be detailed in the refusal letter, together with the reason why the variation is being offered instead of the original request.
- 8.5** Should a Head Teacher, Head of Establishment or Line Manager have reservations about how a request for flexible working, if granted, might affect service delivery, a temporary period of no more than 1 full school session may be considered and agreed. This should be proposed and discussed at the meeting with the applicant held in terms of paragraph 4.3. If agreed, this temporary flexible working arrangement will be reviewed sufficiently far in advance of its expiry but no less than 2 months prior to its expiry and following the process outlined in paragraphs 4.3 and 4.4.
- 8.6** The letter will be issued within 5 working days of the meeting with the applicant and their representative. The letter will provide detail of the intended start date, taking into account the requested start date of the applicant as well as the exigencies of the service and the revised working hours and work pattern. The letter will advise the applicant that they have a right to appeal this decision.
- 8.7** Should the applicant accept the variation/temporary period, this must be intimated in writing to the Head Teacher, Head of Establishment or Line Manager within 5 working days of receipt of the letter offering the variation.
- 8.8** The Head Teacher, Head of Establishment or Line Manager will then submit a completed contract change request form and upload their signed outcome letter to the employee together with the employee's authorised flexible working application form.
- 8.9** A revised statement of particulars will be issued by HR Direct to the applicant within 30 working days of the acceptance, following receipt of the relevant information detailed at 8.8.

- 8.10** Following the review meeting detailed in 8.5, if the Head Teacher, Head of Establishment or Line Manager, decides that the variation/temporary period has not been successful from a business perspective, the applicant will be provided with an outcome letter detailing the business reasons for the decision. The employee will revert to their contractual status upon expiry of the temporary period. There will be no further right of appeal.

Application Refused

- 8.11** The Head Teacher, Head of Establishment or Line Manager, will confirm a decision to reject an application in writing within 5 working days of the meeting with the applicant and their representative. The letter will explain the justifiable business reason(s) for the refusal, as listed below, taking into account how these apply to the application being made and may include consideration of how many employees already have a flexible working arrangement in place. The letter must also advise the applicant of their right of appeal. If the request is rejected, the reasons(s) must be for one or more of the following business reasons as outlined in the Employment Rights Act 1996 (section 80G):

- unreasonable or additional costs to the Department;
- detrimental effect on ability to meet pupil demands and service delivery needs;
- inability to re-organise work amongst existing teachers or recruit additional teachers;
- detrimental impact on quality or performance of education provision;
- insufficient need of additional staffing during the periods the applicant proposes to work;
- planned structural / organisational changes;
- whether it is a reasonable adjustment related to the Equality Act 2010.

9. APPEAL

The Appeal Process

- 9.1** An applicant will be afforded the right to appeal the decision made in respect of their application for flexible working within 5 working days of receipt of the written decision by the Head Teacher, Head of Establishment or Line Manager. Any appeal must be submitted in writing, using the appropriate form (Appendix 2) and emailed in the first instance to the HR Education Business Support mailbox at hreducationbusinesssupport@eastrenfrewshire.gov.uk who in turn will submit it to the Education Senior Manager (Developing People) for consideration at Stage 2. The Education Senior Manager (Developing People) will chair the appeal (or delegate to an appropriate colleague from the Education Leadership team). The appeal must be dated and set out clearly the grounds for the appeal which should address the business reasons given for refusal.
- 9.2** In considering an appeal under LNCT 31, all employees are reminded that un-promoted teachers covered by SNCT conditions of service are appointed to the Local Authority area, and not to a particular school. All employees have a contractual obligation to transfer from one educational establishment to another, at the exigencies

of the business following consultation. As such, if an employee is successful at appeal, they are not guaranteed their flexible working request within their existing establishment. Any decision by the chair person will be dependent upon the availability of existing vacancies at the time of the appeal matching the requests of the appellant from across the Local Authority area.

The Appeal Hearing

- 9.3** An appeal hearing will be held within 20 working days of receipt of the appeal. At the appeal hearing, the appellant may be represented by their trade union representative.
- 9.4** The appellant or the appellant's representative shall present the case for appeal in the presence of the Head Teacher, Head of Establishment or Line Manager, who made the decision on the original request for flexible working.
- 9.5** The Head Teacher, Head of Establishment or Line Manager and Chairperson will have the opportunity to ask questions of the appellant.
- 9.6** The Head Teacher, Head of Establishment or Line Manager, shall then have the opportunity to put forward their case for refusal of the request.
- 9.7** The appellant and/or their representative and the chairperson will have the opportunity to ask questions of the Head Teacher, Head of Establishment or Line Manager.
- 9.8** The appellant or the appellant's representative followed by the Head Teacher, Head of Establishment or Line Manager, will have the opportunity to sum up if they so wish, introducing no new material or information.
- 9.9** The chairperson may communicate their decision to both parties at the conclusion of the meeting, but in any event, the decision shall be confirmed in writing with the appellant within 5 working days of the appeal hearing.
- 9.10** There shall be no further right of appeal.

10. CONDITIONS OF SERVICE AND CONTRACT OF EMPLOYMENT

- 10.1.** Salary for the revised hours of work will be paid on a pro-rata basis in accordance with SNCT conditions.
- 10.2.** It is the employee's responsibility to obtain information on the effect job-sharing/part-time working will have on their superannuation / pension entitlement. This information can be obtained directly from the Scottish Public Pensions Agency.
- 10.3.** It is the responsibility of the employee to consult with the Head Teacher, Head of Establishment or Line Manager, at the start of each school session (or commencement of reduced working hours), to ensure that they are working the correct number of pro rata days in each school session in relation to their agreed revised working pattern. Arrangements for adjustments to working hours in relation to time due to be paid back

to the school or time due to be paid back to the employee must be made in agreement with the Head Teacher, Head of Establishment or Line Manager.

Teachers on a part-time or job sharing contract will be provided with a schedule of in-service days at the start of each academic year and, subject to paragraph 3.13 of the SNCT Handbook, agree what attendance will be in respect of these.

- 10.4. Teachers on a part-time or job sharing contract will be required to attend a pro rata proportion of parents' evenings, and will be provided with a schedule of parents evenings for the forthcoming academic year in advance of the start of the academic year each session.
- 10.5. Employees on a part-time or job sharing contract will be given pro-rata access to CLPL in line with SNCT conditions of service.

11. WORK PATTERNS

- 11.1. The agreed change in working pattern will constitute a permanent contractual change unless otherwise agreed by both parties. Non-class contact time will be pro-rata for teachers working reduced hours.
- 11.2. All other conditions of service will apply to part-time teachers, adjusted where appropriate, to reflect the reduction in working hours.
- 11.3. Continuous service for employees moving to part-time working will be unaffected.

12. JOB SHARE ARRANGEMENT AMMENDMENT

- 12.1 When one job-share partner terminates their contract, interim arrangements may be put in place to ensure continuity of service delivery. A review of the requirement for the post will take place by the Head Teacher, Head of Establishment or Line Manager and / or Budget Unit. The options available are:
 - If a full-time post is no longer required, the remaining employee's contract will be amended to a part-time contract.
 - Where there is a need to fill the vacant job-share post it will be offered, in the first instance, to any surplus teachers/employees in accordance with the agreed procedures (Standard Circular 43).
 - Where the post is not filled by a surplus employee, the remaining job-sharer may be offered the opportunity of full-time employment.
 - If the job sharer refuses the full time post, the post will be filled by normal recruitment procedures in accordance with Standard Circular 16. At this point, the job share contract will have terminated and both posts will become part time contracts.

- 12.2** Normally, there should not be a requirement to alter a work pattern within an academic school session. However, in the event that such a change is required for example where timetable requirements and demands mean that an employee's part-time or job-share work pattern may have to change, appropriate consultation will take place with the relevant employee/s and their Trade Union representative.
- 12.2.1.** Where the timetable change requires only one employee to change their work pattern and there are multiple employees on the flexible working pattern that have the potential to change, all employees will be consulted with in the first instance to establish whether there is a volunteer from within the group.
- 12.2.2** Whether it is one employee or multiple employees you are consulting with, the principle is the same. The employee/s should be invited to a meeting to discuss the change. The meeting should be arranged sufficiently far in advance to allow the employee/s the opportunity to be accompanied by a trade union representative and the manager may wish a member of the HR team to be present.
- 12.2.3** At the meeting, the requirement for the change will be shared with the employee/s and any alternative proposals discussed. The meeting shall thereafter be adjourned to allow the employee to prepare and/or make further representations.
- 12.2.4** Where the consultation is with a number of employees in the hope a volunteer is found but no employee volunteers to change, the employee with the least service to the authority will be the one who is deemed the employee that the consultation will progress with.
- 12.2.5** The consultation meeting should be reconvened within 10 working days at which further discussions and representation will be made. Should this require a change to the employee's flexible working pattern, the employee will be given as much notice as reasonably practicable, but this will be no less than 12 weeks.
- 12.2.6** Once full consultation has been conducted, and notice of the revised working pattern served the Head Teacher, Head of Establishment or Line Manager, should liaise with HR to issue a letter to confirm the outcome and revised pattern.

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