EAST RENFREWSHIRE LNCT AGREEMENT

WORK LIFE BALANCE AND FLEXIBLE WORKING POLICY FOR STAFF COVERED BY SNCT CONDITIONS OF SERVICE

Amended May 2017

East Renfrewshire COUNCIL

Education Department
WORK LIFE BALANCE AND FLEXIBLE WORKING POLICY FOR STAFF COVERED BY SNCT CONDITIONS OF SERVICE

1. INTRODUCTION

East Renfrewshire Council’s Education Department acknowledges the benefits to be gained by building upon existing working arrangements and provisions for teachers within a formal Work Life Balance and 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 abilities of skilled and experienced teaching staff 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 Flexible Working Regulations 2014.

1.3. Forming an integral part of this Work Life Balance Policy are the existing family friendly LNCT agreements as well as provisions within the SNCT conditions of service (Part 2 Section 7 Family Leave, Section 2.15 Career Breaks and Part 4 Devolved matters). These include:

- Maternity Leave
- Adoption Leave
- Fostering Leave
- Parental Leave
- Paternity Leave
- Family Sickness and Bereavement
- Career Breaks
2. ELIGIBILITY

2.1. Requests for part time working or job share can be made by staff that have at least 26 weeks continuous service with the Council and have not made a request to work flexibly in the past 12 months. Requests for career breaks can only be made by staff covered by SNCT conditions of service with at least 2 years continuous service and for those wishing to undertake winding down or phased retirement, eligibility is as per SPPA conditions.

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 staff covered by SNCT conditions of service. However on occasion it may be necessary for priority to be given to those staff 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 to any application being made. The Council reserves the right to reject a request for flexible working for one or more of the business reasons listed in Section 8.9.

3. CORE FLEXIBLE WORKING OPTIONS

3.1. Although flexible working legislation provides a wide variety of options, due to the role and responsibilities of a teacher, and in the interest of maintaining efficient levels of service delivery, not all models of flexible working will be feasible or acceptable. The following core options, although not exhaustive, are the main options available to those covered by SNCT conditions of service:

Career Breaks

Reduced Hours/Part –Time Working

Job Sharing

Winding Down

Phased Retirement

A summary description for each Core Flexible Working option is contained in Appendix 1.
4. PROCEDURES FOR MAKING A FLEXIBLE WORKING REQUEST

4.1. All requests for flexible working from an employee under the Employment Rights Act 1996 and the regulations made under it must be in writing. All requests must be made to the Head Teacher 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 2), must contain a statement that it is a statutory request and include the date of any previous application for flexible working. An explanation must be given as to what effect the individual making the request thinks the proposed change would have on the Service and how, in their opinion, this could be managed. Where the request is for part time, job-share phased retirement or reduced hours it must also detail the pattern requested including 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 new work pattern must be at least 12 weeks in advance (exclusive of annual leave and school closure days) of the date the application is submitted to allow sufficient time for the application to be considered.

4.3. On receipt of an application to work flexibly the Head Teacher will ensure the applicant is eligible and, if confirmed, 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 20 working days from receipt of the application. The applicant should be informed of their right to 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, and to explore the potential effects 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 appropriate compromises 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, except in the case of a career break. The applicant will have no legal right to revert back to his/her former contractual hours of work. Temporary arrangements will only be granted in exceptional circumstances following consultation with a member of the Education Senior Leadership Team.

- Terms and conditions of employment will be affected e.g. salary, leave entitlement and accrual of pension will be on a pro-rata basis.

- An application for job share can only be granted where the Education Department is able to successfully recruit to both parts of the job.

- Any impact any proposed change may have on service delivery, continuity of teaching and learning and the workload and management of fellow colleagues.

- Teachers 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 a term. However, teachers 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.

- A teacher cannot hold two permanent posts whilst working flexibly i.e. two permanent job sharing posts, without the prior approval of the Council.

6. CONSIDERATIONS FOR THE HEAD TEACHER

6.1. In arriving at a decision on the proposal the Head Teacher, following consultation with HR 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 adverse business impact 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, Service provision, the quality of education provision for 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/Education Department to redistribute any resultant excess work without negatively impacting on the workload of others.

• Any impact on existing work patterns or arrangements for others within the school and the ability of the school to accommodate the work in another way.

• The number of teachers already accommodated and the resultant impact on the continuity of education for young people.

• The continuity and consistency in the management of staff and specific work tasks and areas.

• Whether any other more suitable alternative work pattern options are available.

• 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.

• The impact on a teacher’s career development.

• Any planned organisational changes.

• Whether the applicant is classed as having a disability as defined by the Equality Act 2010 or has a disability by association and thus requires 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 only one statutory request 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 will acknowledge a request for flexible working within 5 working days of its receipt.

7.4. A meeting between the Head Teacher, the applicant and their representative will be held within 20 working days of receipt of the request for flexible working.

7.5. The Head Teacher will confirm in writing the decision on the request for flexible working within 10 working days of the meeting.

8. FORM OF DECISION

The decision made by the Head Teacher may take one of the following forms:

Application Approved

8.1. Approval of the request will be made by the Head Teacher in writing within 10 working days of the meeting with the applicant and their representative. The letter will provide detail of the intended start date, which will take into account the requested start date of the applicant as well as the exigencies of the service. The letter will detail any contractual changes and any specific terms and conditions which will apply to the arrangement.

8.2. A revised statement of particulars will be issued by HR to the applicant within 30 days of the approval.

Variation Agreement

8.3. A Head Teacher, upon refusing an applicant's original request, may offer a variation of the original request. Any variation of an original request must be detailed in the refusal letter together with the reason why the variation is being offered instead of the original request.

8.4. The letter will be issued within 10 working days of the meeting with the applicant and their representative during which the aforementioned variation will have been discussed. 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. The letter will also detail any contractual changes and any specific terms and conditions which will apply to the arrangement. The letter will advise the applicant that they have a right to appeal this decision.

8.5. A revised statement of particulars will be issued by HR to the applicant within 30 days of the applicant accepting the variation of the original request. Should the applicant accept the variation, this must be intimated in writing to the Head Teacher within 5 working days of receipt of the letter offering the variation.

Trial Period

8.6. Should a Head Teacher have reservations about how a request for flexible working, if granted, might affect service delivery, a trial period of no more than 6 months may be agreed.

8.7. The letter confirming the trial period will be issued within 10 working days of the meeting with the applicant and their representative during which the aforementioned trial period will have been discussed. The letter will provide detail of the intended start and finish dates of the trial period which will take into account the requested start date of the applicant as well as the exigencies of the service. The letter will also detail any contractual changes and any specific terms and conditions which will apply to the arrangement. The letter will advise the applicant that they have a right to appeal this decision.

8.8. Should the applicant accept the trial period, this must be intimated in writing to the Head Teacher within 5 working days of receipt of the letter offering the trial. If a trial period is agreed and implemented, the Head Teacher will arrange a meeting with the applicant and their representative 4 weeks prior to the end of the trial period to discuss whether the trial has or has not been successful with a view to determining whether it is to be continued on a permanent basis, further extended or discontinued.

Trial Period Unsuccessful

8.9. Following the meeting, if the Head Teacher decides that the trial period has not been successful from a business perspective the original application will be rejected. The Head Teacher must advise the applicant in writing of the business reasons for the decision. The procedures outlined in Sections 8.10 and 9 will then apply. If the applicant deems the trial period unsuccessful,
they will revert to their contractual status prior to the commencement of the trial period.

Application Refused

8.10. The Head Teacher will confirm a decision to reject an application in writing within 10 working days of the meeting with the applicant and their representative. The letter will explain the justifiable business reason(s) for the refusal. The letter must also advise the teacher 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 Flexible Working Regulations 2014:

- 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 teacher 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 have the right to appeal the decision made in respect of their application for flexible working within 10 working days of receipt of the written decision by the Head Teacher. Any appeal must be submitted in writing using the appropriate form (Appendix 3) to the Education Senior Manager, who will chair the appeal (or delegate to a colleague from the Education Leadership team). The appeal must be dated and set out the grounds for the appeal.

The Appeal Hearing

9.2. 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.

9.3. The appellant or the appellant's representative shall present the case for appeal in the presence of the Head Teacher who made the decision on the original request for flexible working.
9.4. The Head Teacher and Chairperson will have the opportunity to ask questions of the appellant.

9.5. The Head Teacher shall then have the opportunity to put forward their case for refusal of the request.

9.6. The appellant and/or their representative and the chairperson will have the opportunity to ask questions of the Head Teacher.

9.7. The appellant or the appellant’s representative followed by the Head Teacher will have the opportunity to sum up if they so wish, introducing no new material or information.

9.8. 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.

9.9. 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 teacher’s responsibility to obtain information on the effect job-sharing/part-time working/ phased retirement/career breaks will have on their superannuation/pension entitlement. This can be obtained directly from the Scottish Public Pensions Agency.

10.3. It is the responsibility of the teacher to consult with the Head Teacher at the start of each school session (or commencement of reduced working hours), to carry out a calculation to ensure that they are working the correct number of days in each school session. 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 teacher must be made in agreement with the Head Teacher.

11. WORK PATTERNS

11.1. The agreed change in working pattern will constitute a permanent contractual change unless otherwise agreed by both parties. Classes maybe timetabled at any-time between the agreed hours of work and non-class contact time will be pro-rata for teachers working reduced hours.
APPENDIX 1

1. CORE FLEXIBLE WORKING ARRANGEMENTS

The following is a summary of how each of the proposed Core Flexible Working options may operate and the key contractual principles the Education Department would be expected to apply in order to ensure a level of equity and consistency for all employees.

The list of Core Options is not exhaustive and there may be other forms of flexible working that staff covered by SNCT conditions may wish to explore.

2. Core Options

- Career Breaks
- Reduced Hours/Part-Time Working
- Job Sharing
- Winding Down
- Phased Retirement

3. Career Breaks

3.1 Definition

A career break is a period of special leave without pay the purpose of which is to provide staff covered by SNCT conditions of service with an opportunity to obtain an extended break.

3.2 Conditions

It is for the Department to decide whether the exigencies of service provision allow for a career break to be granted. In line with SNCT Conditions of Service Part 2, Appendix 2.15 Section 2.2 "The needs of pupils should take precedence over other matters when applications are considered".

A career break can last for a minimum of 6 months and a maximum of 5 years. Employees who are offered a career break of 2 years or less will be entitled to return to their substantive post in the school they were employed before the career break. Employees who are granted a career break of more than 2 years will be deployed to a post commensurate with the post vacated upon their return.

All other conditions not expressed within this agreement in relation to career breaks are in accordance with those expressed in SNCT Conditions of Service Part 2, Appendix 2.15.
4. **Reduced Hours/Part-Time Working**

4.1 **Definition**

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 for teaching staff.

4.2 **Conditions**

4.2.1 **Leave**

The entitlement for leave will be a pro-rata share of the entitlement for full time teachers.

4.2.2 **In-Service Days**

Teachers on a part-time contract will be required to attend a pro rata proportion of in-service days for their school and will be provided with a schedule of in-service days for the forthcoming academic year in advance of the start of the academic year each session.

4.2.3 **Parents Evenings**

Teachers working part-time 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.

4.2.4 **Continuous Professional Development**

Part-time workers will be given pro-rata access to CLPL in line with SNCT conditions of service.

All other conditions of service will apply to part-time teachers, adjusted where appropriate, to reflect the reduction in working hours. Continuous service for teachers moving to part-time working will be unaffected.

5. **Job Share Arrangements**

5.1 **Definition**

A job share 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, either 2.5 days each per week or 2:3 day split for alternative weeks.

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

5.2 Conditions

5.2.1 Leave

The entitlement for leave will be a pro-rata share of the entitlement for full time teachers.

5.2.2 In-Service Days

Job sharers will be required to attend a pro rata proportion of in-service days for their school and will be provided with a schedule of in-service days for the forthcoming academic year in advance of the start of the academic year each session.

5.2.3 Parents Evenings

Job sharers 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.

5.2.4 Continuous Professional Development

Job share teachers will be given pro-rata access to CLPL in line with SNCT conditions of service.

5.2.5 Changes to Current Arrangements

When one job-share partner terminates the 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 and / or Budget Unit. The options available are:

- If a full-time post is no longer required, the remaining teacher’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 surplus teachers in accordance with the agreed procedures (Standard Circular 43).

- Where the post is not filled by a surplus teacher, 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.

All other conditions of service will apply to teachers working on a job share basis, adjusted where appropriate, to reflect the reduction in working hours. Continuous service for teachers on job share contracts will be unaffected.

6. **Winding Down**

6.1 **Definition**

Winding Down offers those members approaching their retirement age the opportunity to continue in employment on a part-time basis whilst protecting their overall final retirement pension entitlement.

6.2 **Conditions**

To participate in winding down employment, a teacher must:

• be a member of the Scottish Teachers’ Superannuation Scheme:

• have elected to wind down no earlier than 4 years prior to their Normal Pension Age:

• have been in continuous full time service for a period of 10 years immediately prior to commencing winding down employment

• have accrued a minimum of 25 years teaching service prior to commencing winding down (you must have had a contract to teach for at least 25 years).

• have the consent of their employer

• go part-time and their employment must be equal to or more than 0.5 full time equivalent

• remain in winding down employment for no longer than 4 years

Winding down employment allows each year of service under the part-time contract to count as one full year for pension benefit calculation purposes.
A teacher can lose the service credit for winding down if they:

- return to full time employment;
- exceed the 4 years maximum period;
- work less than a 0.5 contract.

The Education Department can only give consent to wind down in principle as eligibility must also be confirmed by the Scottish Public Pensions Agency (SPPA). Advice should first be sought by the applicant from the SPPA as to eligibility for winding down.

Once agreed by the employer, applicants for Winding Down must contact SPPA and obtain the correct paperwork which they must complete and submit as appropriate.

7. Phased Retirement

7.1 Definition

Phased Retirement allows teachers to reduce their working commitment while releasing a proportion of their pension benefits up to full retirement.

7.2 Conditions

To be considered for phased retirement, a teacher must:

- be a member of the Scottish Teachers' Superannuation Scheme:
- be age 55 or over
- have been in pensionable employment on or after 1 April 2007
- have the agreement of their employer before applying

The maximum amount an individual teacher is able to take is 75% of their total retirement benefits. In addition there must be a reduction of at least 20% of pensionable salary and this must occur for a minimum of 12 months. This can be achieved with a reduction in the number of hours worked or the option of a move to a post of lesser responsibility. Once agreed by the employer, applicants for Phased Retirement must contact SPPA and obtain the correct paperwork which they must complete and submit as appropriate.
EAST RENFREWSHIRE COUNCIL

LNCT/31 WORKLIFE BALANCE AND FLEXIBLE WORKING POLICY FOR STAFF COVERED BY SNCT CONDITIONS OF SERVICE

APPLICATION FOR FLEXIBLE WORKING (TEACHERS)

Before completing this form, teachers should refer to East Renfrewshire Council’s Flexible Working Policy for Staff Covered by SNCT Conditions of Service (LNCT/31).

You should ensure that you submit your application at least 12 weeks in advance (exclusive of annual leave and school closure days) of the date you wish your request to take effect.

It is important that you complete all questions as fully as possible in order for your application to be given due consideration.

If your application is approved, this will constitute a permanent change to your terms and conditions, unless otherwise agreed by both parties.

For job share applications only: all job share applications are subject to the availability of a suitable partner. The Council will use its best endeavours to find suitable partners for all applicants subject to the cost and ability to recruit. If a suitable partner is not available before the start date proposed by the applicant the job share request will be refused.

This form should be sent to your Head Teacher for consideration.

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NEW WORKING PATTERN

I confirm that I meet each of the eligibility criteria as follows:

If applying for job share or part-time working

☐ I have worked continuously as an employee of East Renfrewshire Council for the last 26 weeks.

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

If applying for a career break

☐ I have worked continuously as an employee of East Renfrewshire Council for the last 2 years

If applying for winding down

☐ I have worked continuously as an employee of East Renfrewshire Council for the last 10 years and have accrued a minimum of 25 years teaching service prior to commencing winding down.

☐ I have contacted SPPA and have their approval for winding down, copy documentary evidence attached from SPPA.

If applying for phased retirement

☐ I have worked continuously as an employee of East Renfrewshire Council for the last 26 weeks.

☐ I have not made a statutory request to work flexibly under this right during the past 12 months.
# CORE FLEXIBLE WORKING REQUEST

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Please provide full details of the reasons for your request for flexible working (job sharing).
(Please attach any documentary evidence you may wish in support of your request)

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Part time Working Requested ______ FTE

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Please provide full details of the reasons for your request for flexible working (part time working).
(Please attach any documentary evidence you may wish in support of your request)

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□ Career break

Duration: .................  Start date: .................  End Date: .................

Please provide full details of the reasons for your request for flexible working (career break).
(Please attach any documentary evidence you may wish in support of your request)

Reason: ...........................................................................................................................................
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☐ Winding Down

Duration: .................. Start date: ................. End Date: .................

Please provide full details of the reasons for your request for flexible working (winding down).
(Please attach any documentary evidence you may wish in support of your request)

Reason: ...........................................................................................................
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☐ Phased Retirement Requested _____ FTE

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Please provide full details of the reasons for your request for flexible working (phased retirement).
(Please attach any documentary evidence you may wish in support of your request)

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Please provide an explanation as to what effect your proposed change would have on the Service and how in your opinion this could be managed.


Proposed date of commencement of new working pattern (please allow a minimum of 12 weeks' notice, exclusive of all annual leave and school closure days):

Date: ..............................................

DECLARATION:

I confirm that I have read and understood East Renfrewshire Council's Flexible Working Policy for Staff Covered by SNCT Conditions of Service (LNCT/31).

Signed: .............................................. Date: ..............................................

Original Request Approved □ Rejected □
Variation of Approval ...........................................................

Trial Approved □ Rejected □
Duration of Trial if Approved .................................

Signature of Head Teacher: ........................ Date: ...........................
EAST RENFREWSHIRE COUNCIL

LNCT 31 WORKLIFE BALANCE AND FLEXIBLE WORKING POLICY FOR STAFF COVERED BY SNCT CONDITIONS OF SERVICE

FLEXIBLE WORKING APPEAL FORM (TEACHERS)

PERSONAL DETAILS

Name: ..................................................  Designation: ........................................

Home Address: ......................................  Work Location: .................................

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FLEXIBLE WORKING REQUEST

☐ Job Sharing  ☐ Part time  ☐ Career break  ☐ Winding Down  ☐ Phased Retirement  Date of Application: ........................................

(Please attach copy of original application)

Date of meeting with Head Teacher under Section 4.3 of LNCT 31:

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REFUSAL

Request Refused By: ............................ Date of Refusal: ................................

Designation: ................................................

Please provide full details of the grounds for your appeal against the decision to refuse your application for flexible working.

(Please attach any documentary evidence you may wish in support of your appeal)

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Grounds for Appeal continued..............

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This form should be submitted to the Education Senior Manager within 14 days of receipt of the Flexible Working Application refusal.

Signature ........................................ Date ........................................