

Flexible Working Policy and Procedures

JNCT 2.15 – Employees covered by SNCT Terms and Conditions

Human Resources
November 2020


**THE
SOUTH
AYRSHIRE
WAY**

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Version Control

| Version Number | Effective Date | Details of Revision | Responsible Person | Review Date |
|----------------|----------------|-------------------------------------------|--------------------|-------------|
| 1 | Nov 2020 | Update policy template and appeal process | L Boyd | Oct 2021 |
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1. Policy

- 1.1 The Council recognises the importance of balancing working life with domestic / family / caring / training /study responsibilities and that effective service provision can be enhanced by employees being able to strike such a balance. Therefore, to support employees, a range of flexible working options are available, subject to service requirements.
- 1.2 In keeping with its commitment to providing effective and progressive employment policies the Council:
 - encourages managers and employees to develop a partnership approach to identifying workable solutions to achieving work-life balance;
 - will consider all flexible working requests in accordance with set procedures and time limits, and
 - will ensure that agreed working arrangements are compatible with and beneficial to business efficiency and provision of services within the Council.
- 1.3 All flexible working arrangements must ensure both continuity in service delivery and the maintenance of appropriate staffing levels.
- 1.4 Head Teachers/Managers will ensure that requests are considered seriously and that employees are aware of:
 - a) any impact on conditions of service, e.g., pay, annual leave etc, arising from the flexible working request; and
 - b) any health and safety implications, including the Working Time Regulations.
- 1.5 An employee with a flexible working pattern in place who successfully applies for a new position within the Council must advise the Recruiting Head Teacher/Manager of his/her working pattern. The Recruiting Head Teacher/Manager will review the working pattern and ensure the arrangements meet the needs of the service.
- 1.6 An application for flexible working may be treated as refused if the employee fails to attend two meetings or unreasonably refuses to provide his/her Head Teacher/ Manager with sufficient information to support the request. In such circumstances, the employee will not be eligible to make another application within 12 months from the date of their application (please refer to section 2 below).

2. Eligibility

- 2.1 To be entitled to apply for flexible working an employee must:
 - have worked with the Council continuously for 26 weeks on the date on which the application is made, and
 - not have made a previous application in the 12 months from the date of the application.

3. Flexible Working Options

- 3.1 Eligible employees will be able to request from the following options, however advice should be sought from Education Services (staffing discussion) or from Human Resources (policy discussion) and it must be acknowledged that in the interests of maintaining efficient level of service delivery, not all models of flexible working will

be feasible, please also refer to further considerations in Appendix 3 for Head Teachers, Depute Head Teachers and Principal Teachers.

a) Part Time

An employee moves to contracted weekly working hours that are less than his/her current contracted hours. Salary and Holiday entitlement are adjusted accordingly;

b) Term Time

An employee works hours and days in line with the school timetable. Salary is paid in equal amounts over 12 months and includes an allowance in lieu of annual leave entitlement.

c) Annualised Hours

Weekly working time varies across a 12 month period to meet service demands rather than a fixed standard working week. Although the working pattern varies salary is paid in equal instalments irrespective of the actual number of hours worked in any given period.

d) Compressed Hours

An employee retains his/her contracted weekly hours but works over fewer days, meaning longer shifts on each day.

e) Home Working

There are two types of homeworking:

- Working **from** Home - where the employee has a base at home but works on a peripatetic basis; and
- Working **at** Home - where the employee is based solely, or predominately at home.

f) Flexi Time

Where employees are able to vary their start and finish times.

- 3.2 Where a flexible working arrangement is temporary, then individual cases will be reviewed during the annual staffing exercise. Under the current surplus agreement, promoted teaching staff are not normally considered for transfer when the school staffing entitlement drops. Where one person simultaneously holds a promoted and an unpromoted contract, and this contractual arrangement is a permanent one, the teacher will normally be safeguarded from being declared surplus. Further information can be found in the relevant JNCT agreement.

4. Procedure

4.1 MAKING A REQUEST

- 4.1.1 Flexible working requests should be made directly to the Head Teacher/Manager. Applications must be made using form **PER/FW/1** (Appendix 1). Any requests submitted early in the new year may be held subject to completion of the annual staffing exercise.
- 4.1.2 Before making an application employees must give careful consideration to the following:
- The new working pattern will normally be a permanent change;
 - The effect it will have on their job and the Council in terms of service delivery and how this might be accommodated;
 - Which working pattern will best suit their personal circumstances;

- Any financial implications in cases where the desired working pattern will involve a reduction in salary or other changes to terms and conditions.
- Employees should contact Employee Services to determine the impact of flexible working on their salary.

4.2 MANAGEMENT RESPONSE

4.2.1 Head Teacher or Manager should discuss all requests with Education Services (staffing discussion) in the first instance. Any advice on the policy should be discussed with Human Resources.

4.2.2 MEETING TO CONSIDER APPLICATION

Within 28 days of receipt of the application, the Head Teacher or Manager, plus Human Resources where appropriate, will meet with the employee to discuss the requested work pattern. The employee is entitled to be accompanied by a work colleague or trade union representative.

If the timescale cannot be met the employee must be advised in writing.

Approval of a Flexible Working application must not lead to additional costs being incurred and must be covered within budget.

4.2.3 NOTIFICATION OF DECISION

Within 14 days after the meeting, the Head Teacher or Manager will write to the employee to:

- a) Agree to a new work pattern with a start date; or
- b) Provide a clear reason from one of the permitted reasons for rejecting the request (please refer to section 5 below).

4.2.4 If the request is agreed, either on a permanent or temporary basis, an amendment to the employee's contract of employment will be issued.

4.2.5 If the request is rejected, the employee will be advised of his/her entitlement to appeal the decision.

4.2.6 If the timescale cannot be met the employee must be advised in writing.

4.3 RIGHT OF APPEAL

4.3.1 Any appeal from an employee covered by SNCT terms and conditions must be made in writing to the Depute Chief Executive and Director People within 14 days from the date written confirmation of the decision is received.

4.3.2 Informal appeal:

The Depute Chief Executive and Director People will arrange for an informal hearing to be held within 14 days, convened by an appropriate senior officer. The employee is entitled to be accompanied at the hearing by a work colleague or trade union representative. The outcome of the informal hearing will be communicated to the employee within 14 days.

4.3.3 Formal Appeal Process:

If the matter is not resolved at the informal hearing, the employee can submit a further appeal within 14 days of receipt of notification, by following the Teacher's Grievance Procedure JNCT 1.11, commencing at Stage 4, appeal to Elected Members. Any request for such a hearing should be intimated to Head of Legal, HR and Regulatory Services within 10 working days from receipt of the decision.

- 4.3.4 If the appeal is upheld, the written decision must include a description of the new work pattern. If the appeal is dismissed the written decision must provide the grounds for refusal.

A diagrammatic summary of the procedure is provided at Appendix 2.

4.4 EXTENSIONS TO TIME LIMITS AND WITHDRAWN APPLICATIONS

- 4.4.1 The various time limits within this policy may be extended where there is mutual agreement between both parties. Where such extension is required this should be recorded in writing.

- 4.4.2 If the employee decides to withdraw their application, he/she will not be eligible to make another application within 12 months from the date their application was made.

5. Reasons for Refusing a Request

Permitted reasons to reject an application are set out in legislation and are as follows:

- unreasonable or additional costs to the Council;
- detrimental effect on ability to meet customer demands and service delivery needs;
- inability to re-organise work amongst existing employees or recruit additional employees;
- detrimental impact on quality or performance;
- insufficiency of work during the periods the employee proposes to work;
- planned structural changes;
- training which would not directly improve an employee's effectiveness or service performance or which might have a detrimental impact on the Council.



| APPLICATION FOR FLEXIBLE WORKING (JNCT 2.15) | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| You must complete all sections and provide as much information as possible about your desired working pattern and submit at least 3 months in advance of the date you wish your request to take effect. | |
| SECTION 1: PERSONAL DETAILS | |
| Name: | Employee No: |
| Designation: | Work Location: |
| I currently have flexible working arrangements in place: YES/NO (delete as appropriate) | |
| Please provide details of your current work pattern (days/hours/times worked): | |
| | |
| SECTION 2: NEW WORKING PATTERN | |
| Please provide details of the proposal(s): | |
| Tick as appropriate: | |
| <input type="checkbox"/> Change to work hours | |
| <input type="checkbox"/> Change to work times | |
| <input type="checkbox"/> Term Time Working | |
| <input type="checkbox"/> Annualised Hours | |
| <input type="checkbox"/> Compressed Hours | |
| <input type="checkbox"/> Home Working | |
| Revised Working pattern: | |
| Please provide further information on the proposal including details of the revised working pattern (days, hours, start and finish times): | |
| | |

Training or study:

If the request is for time off to accommodate Training or Study the following information must be provided:

- Detail of Training / Study undertaken
- Location / Dates / Times of training/study
- Details of training provider
- Qualification (if any) to be achieved

Please provide detail of how the service could accommodate this arrangement consider work performance, service delivery and impact on colleagues:

Please provide any further information that you feel may be relevant:

Proposed Date of Commencement of New Working Pattern (please allow 3 months from requested date of commencement):

Is the proposed change to the working pattern to be permanent? : YES/NO (delete as appropriate)

If temporary, what is the duration of the request?

SECTION 3: DECLARATION

EMPLOYEE DECLARATION:

I confirm that I have read and understood the Flexible Working policy and have discussed my request with my manager. I confirm that I meet the relevant qualifying conditions.

Signature of Applicant:

Date:

HEAD TEACHER/MANAGER DECLARATION:

I confirm that I have discussed the flexible working request with my employee and I

- Agree** to a new work pattern with a start date of DATE: ; or
- Agree** to a temporary work pattern, with a start date of DATE: ; and end date of DATE; or
- DO NOT agree** to the Flexible Working request and have advised the employee of their right of appeal.

Signature of Head Teacher/Manager:

Date:

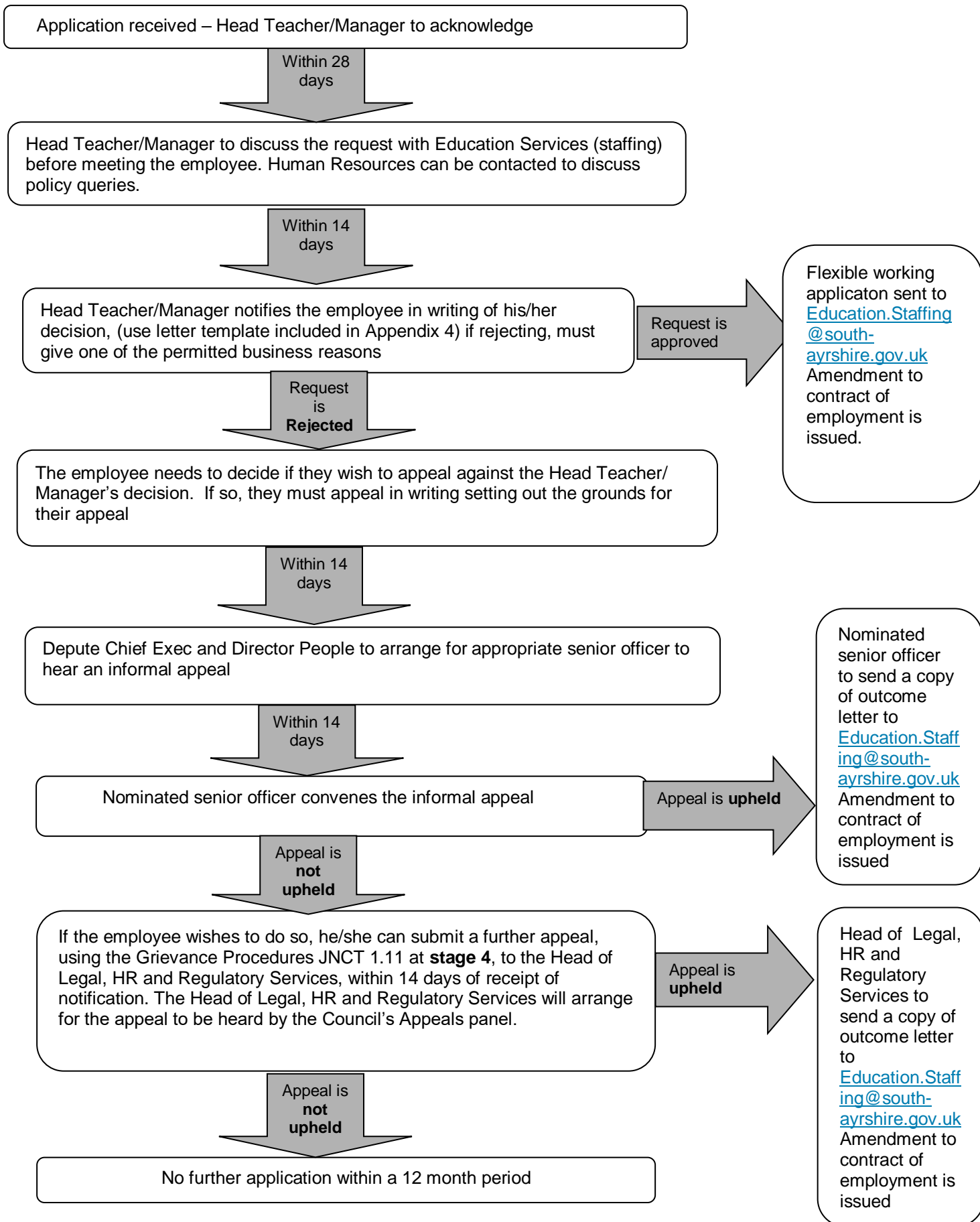
Note to Manager:

Please discuss all applications with Education Services (StaffingTeam) in the first instance. Any advice on the policy should be discussed with Human Resources to ensure timescales and procedure are being met.

Once completed and signed by both employee and manager, please email this application to Education.Staffing@south-ayrshire.gov.uk

It is our responsibility to keep your information safe. To find out what to expect when the Council collects your personal information, please visit our website- <https://www.south-ayrshire.gov.uk/personal-information/>

SUMMARY OF FLEXIBLE WORKING REQUEST PROCESS



FURTHER CONSIDERATIONS – Head Teachers, Depute Head Teachers and Principal Teachers

1. The Council will give full consideration to all applications for Flexible Working including from those staff occupying promoted posts.
2. No employee should automatically be turned down because they hold a leadership or guidance position.
3. Due consideration should be given to alternative ways of working, with the balance of the decision on trying to accommodate wherever possible. This will ensure that valuable and experienced staff are retained in education whilst acknowledging they may have other commitments and/or circumstances outside of their employment which do not allow them to work on a full time basis.
4. **Promoted Posts**

The Head Teacher must discuss all requests from Depute Head Teachers with the appropriate QIM prior to any agreement being reached with the following principles applying:

 - Consideration should be given to the management responsibilities and class commitment of the teacher in question and the adjusted hours agreed accordingly;
 - The teacher requesting flexible working must consider how arrangements could work in their subject/stage and include such suggestions in their application for flexible working. If the request is granted it will be the responsibility of the teachers working flexibly, in conjunction with the Head Teacher, to ensure that satisfactory arrangements are in place for the continuity of educational provision for the pupils and to ensure suitable communication arrangements are in place;
 - Requests for flexible working from subject teachers will normally only proceed where an appropriate subject match can be arranged;
 - In relation to the Guidance function, where a Principal Teacher Guidance with a subject commitment requests flexible working, the Council reserves the right to advertise for someone who holds the same subject qualification as the original post holder;
 - Depute Head Teachers requesting flexible working would not normally require to have their posts advertised as subject specific unless that particular Depute Head Teacher has a heavy class contact commitment in a particular subject or other unusual circumstances apply;
 - In relation to Depute Head Teacher posts in the secondary sector, there may be a requirement for the Head Teacher to redistribute the management duties. Such redistribution could impact on the job size for the promoted posts within the school and should be fully discussed with Education Services (Staffing team) prior to reaching any agreement.

LETTER TEMPLATES

The following letter templates should be used to document the Flexible Working Application process. For advice please contact your HR Advisor. All letters must be issued using Corporate Templates to ensure a consistent, corporate and professional response. Head Teacher/Managers details should be populated with details of the person signing the letter.

| REFERENCE | USE |
|------------------|----------------------------------------------------------------------------------------------------------------|
| SNCT/FW/LET/1 | Acknowledgement of Flexible Working Application |
| SNCT/FW/LET/2 | Invite to Flexible Working Meeting |
| SNCT/FW/LET/3 | Letter to Employee – Extension of Policy Timescales |
| SNCT/FW/LET/4 | Agreement of Flexible Working Application <ul style="list-style-type: none"> • Temporary Change |
| SNCT/FW/LET/5 | Agreement of Flexible Working Application <ul style="list-style-type: none"> • Permanent Change |
| SNCT/FW/LET/6 | Refusal of Flexible Working Application <i>* call in paragraph re: reason for refusal</i> |
| SNCT/FW/LET/7 | Acknowledgement of Informal Appeal |
| SNCT/FW/LET/8 | Invite to Informal Appeal Hearing |
| SNCT/FW/LET/9 | Outcome of Informal Appeal Hearing <ul style="list-style-type: none"> • Temporary Change |
| SNCT/FW/LET/10 | Outcome of Informal Appeal Hearing <ul style="list-style-type: none"> • Permanent Change |
| SNCT/FW/LET/11 | Outcome of Informal Appeal Hearing <ul style="list-style-type: none"> • Appeal Refused |

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| SNCT/FW/LET/1 | ACKNOWLEDGEMENT OF FLEXIBLE WORKING APPLICATION |
| <p>I write to confirm receipt of your Flexible Working application which was received on DATE.</p> <p>I will write to you within 28 days to arrange a meeting to discuss your application.</p> <p>In the meantime if you have any questions please do not hesitate to contact me.</p> | |
| <p>NOTE: If in the position to arrange the meeting then issue PER/FW/LET/2.</p> | |

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| SNCT/FW/LET/2 | INVITE TO FLEXIBLE WORKING MEETING |
| <p>Following your recent Flexible Working application I write to invite you to a meeting at TIME on DATE. The meeting will be held at LOCATION.</p> <p>NAME, TITLE will also be in attendance <i>*delete if no other attendees at meeting</i>.</p> <p>Should the date, time or venue be unsuitable please do not hesitate to contact me to allow alternative arrangements to be made.</p> <p>You may, if you wish, be accompanied by your Trade Union representative or appropriate work colleague.</p> <p>It would be helpful if you would confirm both your attendance and the name of anyone accompanying you to the interview.</p> | |

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| SNCT/FW/LET/3 | LETTER TO EMPLOYEE – EXTENSION OF POLICY TIMESCALES |
| <p>I write to advise that I wish to extend the amount of time the Flexible Working policy permits to consider applications. This is to allow me to <i>[arrange a meeting to discuss your application]; [notify you of my decision regarding your application]; [arrange a meeting with you to discuss your appeal]; [notify you of my decision regarding your appeal]</i>. <i>*Delete as appropriate</i>.</p> <p>The time will be extended for No. of days to allow the necessary to be undertaken.</p> <p>Please notify me, by signing and returning a copy of this letter, that you are in agreement with this extension.</p> <p>Should you have any queries please do not hesitate to contact me.</p> <p>Yours sincerely</p> <p>Name Designation</p> <p>I agree to the extension as specified in the letter above:</p> | |

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| SNCT/FW/LET/4 | AGREEMENT OF FLEXIBLE WORKING APPLICATION |
| TEMPORARY CHANGE – please ensure the completed flexible working application is sent to: <u>Education.Staffing@south-ayrshire.gov.uk</u> | |
| <p>Following our meeting held on DATE which we discussed your Flexible Working application I am pleased to confirm that your request has been granted on a temporary basis.</p> <p>As requested your new working pattern will be as follows:</p> <p>XX SPECIFY AGREED CHANGES – WORKING DAYS/HOURS/BREAKS XX</p> <p>Your temporary working arrangement will commence on DATE and as discussed this change is on a temporary basis for a period of Xweeks/monthsX ending on DATE where you will revert to your substantive post/hours.</p> <p>An Amendment to your Terms and Conditions of Employment will be issued via Employee Services in due course.</p> <p>In the meantime if you have any questions please contact me as soon as possible.</p> | |

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| SNCT/FW/LET/5 | AGREEMENT OF FLEXIBLE WORKING APPLICATION |
| PERMANENT CHANGE – please ensure the completed flexible working application is sent to: <u>Education.Staffing@south-ayrshire.gov.uk</u> | |
| <p>Following our meeting held on DATE which we discussed your Flexible Working application I am pleased to confirm that your request has been granted.</p> <p>As requested your new working pattern will be as follows:</p> <p>XX SPECIFY AGREED CHANGES – WORKING DAYS/HOURS/BREAKS XX</p> <p>I would like to reiterate that this is a permanent change to your terms and conditions of employment and you have no right to revert back to your previous working pattern.</p> <p>Your new working arrangement will commence on DATE.</p> <p>An Amendment to your Terms and Conditions of Employment will be issued via Employee Services in due course.</p> <p>In the meantime if you have any questions please contact me as soon as possible.</p> | |

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| SNCT/FW/LET/6 | REFUSAL OF FLEXIBLE WORKING APPLICATION [please ensure this letter is copied to your HR Advisor] |
| <p>Following our meeting on DATE and having fully considered the information presented by you, it is with regret that I must inform you that your request for Flexible Working cannot be accommodated based on the following business reason:</p> <p>**include/delete reason(s) as appropriate**</p> | |

- unreasonable or additional costs to the Council;
- detrimental effect on ability to meet customer demands;
- inability to re-organise work amongst existing employees or recruit additional employees;
- detrimental impact on quality or performance;
- insufficiency of work during the periods the employee proposes to work;
- planned structural changes.

The justification for my decision is/are **XX insert justification for decision – liaise with HR if assistance required XX**.

Please note that you will not be able to apply for a further flexible working request within the next 12 months from **XX Insert date of this current application XX**.

You have a right of appeal and should you wish to do so you should submit this in writing, setting out your grounds for appeal, to Depute Chief Executive and Director People, County Buildings, Wellington Square, KA7 1DR within 14 days from receipt of this letter.

If you have any further queries please do not hesitate to contact me on the above matter.

| SNCT/FW/LET/7 | ACKNOWLEDGEMENT OF INFORMAL APPEAL |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| <p>I confirm that I have received your appeal letter in relation to INSERT NAME decision to refuse your request for Flexible Working.</p> <p>An appeal hearing will be convened in the next 14 days and you will be notified of the details in due course.</p> <p>In the meantime if you have any questions please do not hesitate to contact me.</p> | |

| SNCT/FW/LET/8 | INVITE TO INFORMAL APPEAL HEARING |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| <p>I am in receipt of your letter of DATE appealing against the decision to refuse your request for flexible working.</p> <p>In line with the Flexible Working policy I would like to meet with you on DATE at TIME at LOCATION to discuss this further.</p> <p>Following the hearing a decision will be made on your appeal and you will be informed of this, in writing, within 14 days of the appeal hearing.</p> <p>You may, if you wish, be accompanied by your Trade Union representative or appropriate work colleague.</p> <p>It would be helpful if you would confirm both your attendance and the name of anyone accompanying you to the interview.</p> | |

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| SNCT/FW/LET/9 | OUTCOME OF INFORMAL APPEAL HEARING APPEAL UPHELD / TEMPORARY CHANGE please ensure a copy of this letter is sent to Education.Staffing@south-ayrshire.gov.uk |
| <p>I refer to the appeal hearing of DATE in which you were accompanied by NAME, TITLE.</p> <p>Having fully considered the grounds for appeal I am pleased to confirm that your appeal has been upheld and as a result I am able to accommodate your request to change your working pattern as follows:</p> <p>XX SPECIFY AGREED CHANGES – WORKING DAYS/HOURS/BREAKS XX</p> <p>Your temporary working arrangement will commence on DATE and as discussed this change is on a temporary basis for a period of Xweeks/monthsX ending on DATE where you will revert to your substantive post/hours.</p> <p>An Amendment to your Terms and Conditions of Employment will be issued via Employee Services in due course.</p> <p>In the meantime if you have any questions please contact me as soon as possible.</p> | |

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| SNCT/FW/LET/10 | OUTCOME OF INFORMAL APPEAL HEARING APPEAL UPHELD / PERMANENT CHANGE please ensure a copy of this letter is sent to Education.Staffing@south-ayrshire.gov.uk |
| <p>I refer to the appeal hearing of DATE in which you were accompanied by NAME, TITLE.</p> <p>Having fully considered the grounds for appeal I am pleased to confirm that your appeal has been upheld and as a result I am able to accommodate your request to change your working pattern as follows:</p> <p>XX SPECIFY AGREED CHANGES – WORKING DAYS/HOURS/BREAKS XX</p> <p>I would like to reiterate that this change is a permanent change to your terms and conditions of employment and you have no right to revert back to your previous working pattern.</p> <p>Your new working arrangement will commence on DATE.</p> <p>An Amendment to your Terms and Conditions of Employment will be issued via Employee Services in due course.</p> <p>In the meantime if you have any questions please contact me as soon as possible.</p> | |

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| SNCT/FW/LET/11 | OUTCOME OF INFORMAL APPEAL HEARING APPEAL REFUSED please ensure a copy of this letter is sent to Education.Staffing@south-ayrshire.gov.uk and to your HR Advisor |
| <p>I refer to the Appeal Hearing held on DATE in which your Flexible Working appeal against the refusal of your Flexible Working application was heard.</p> | |

Having reviewed all relevant matters and given due consideration to your appeal it is with regret that your appeal is not upheld.

The grounds for this decision **is/are**:

****include/delete reason(s) as appropriate****

- unreasonable or additional costs to the Council;
- detrimental effect on ability to meet customer demands;
- inability to re-organise work amongst existing employees or recruit additional employees;
- detrimental impact on quality or performance;
- insufficiency of work during the periods the employee proposes to work;
- planned structural changes.

The justification for my decision **is/are XX insert justification for the above decision – liaise with HR if assistance required XX.**

Please note that you will not be able to apply for a further flexible working request within the next 12 months from **XX Insert date of this current application XX.**

You have a right of appeal and should you wish to do so please submit this in writing, setting out the grounds for your appeal to the Head of Legal, HR and Regulatory Services, Chief Executives Office, County Buildings, Wellington Square, KA7 1DR within 14 days from receipt of this letter. The Head of Legal, HR and Regulatory Services will arrange for your appeal to be considered by the Elected Members Appeals Panel within 28 days of the request for a hearing being received.

In the meantime if you have any questions please contact me as soon as possible.