

# Canonium Learning Trust



## Flexible Working Policy (Dec 2020)\*



Adopted: 2020/2021

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# 1. Introduction

The Trust recognises that employees may wish to change their working pattern / arrangements for a variety of reasons and recognises that allowing this can support the retention of experienced staff and support wellbeing and work life balance. Flexible working arrangements can also increase staff motivation and improve performance and productivity.

This policy sets out the process employees should follow when making a flexible working request and how such requests will be handled. All flexible working requests will be considered and will be managed objectively and fairly. There is no obligation under the flexible working legislation for employers to agree to a request, however, requests will only be rejected where there is a valid business reason for doing so (see section 5.2.2 below).

A flexible working request is a request by an employee for a permanent change to their contractual terms and conditions of employment. Examples of changes employees may request include changes to:

- Their overall hours of work (including part time or job share)
- Their working times / pattern
- Work from home or change their place of work

Any agreed change to the contract of employment as a result of a flexible working application will result in a permanent variation to the contract. If the employee is requesting a temporary change to their working pattern/arrangements this is outside the scope of the flexible working legislation and this policy (see section 5.2.1 (i)).

The only way for an employee to further change/amend their working pattern or return to their previous working pattern will be to make a further flexible working request, although an employee may still only make one request within any period of 12 months.

# 2 Eligibility

The statutory right to request flexible working applies to all employees with 26 weeks continuous service with their employer at the date the application is made.

Employees who have been employed for less than 26 weeks do not have a statutory right to request flexible working, although requests from these individuals may be considered on a discretionary basis. All requests from all employees will be given equal consideration and looked at in a fair and equitable manner.

Under the statutory scheme, an employee may only make one application within any 12-month period to the same employer. Any further applications will be considered on a discretionary basis.

# 3. Making an application

Employees who wish to submit a flexible working application must do so in writing. Employees may complete an SFW1 form (see Appendix 2) or submit a letter or email containing the appropriate information as set out below. Applications must be submitted to **Headteacher/Head of School** in the first instance.

The right to request flexible working legislation requires that employees must include the following information in their application:

- State that it is a statutory request for flexible working;
- State whether a previous application for flexible working has been made to the employer and, if so, the date of the application;
- State the date of the application, set out the change to working conditions applied for and the date they wish it to become effective;
- Explain the effect that they envisage the requested change will have on their employer and / or department / area of work, including how, in their opinion, any such effect might be dealt with;

- State if they are making their request in relation to the Equality Act 2010, for example, as a reasonable adjustment for a disability.

A flexible working application is taken as made on the day it is received by the employer.

If an employee's request for flexible working does not contain the required information, the employee's line manager should explain to the employee what additional or amended information needs to be provided and ask the employee to resubmit their request.

## 4. Timing of applications

Under the statutory scheme there is no set notice period for making a request. The law requires the consideration process to be completed within three months of first receiving the request, including any appeal. Therefore, the proposed date for the change to take effect should allow time for the application to be considered and implemented.

If for some reason the request cannot be dealt within three months then an extension to this time limit can be agreed between the employer and the employee. Any such extension will be confirmed in writing.

Although requests can be submitted at any time, employees are encouraged to submit them during normal school term times. Where a request is received shortly before or during a school closure period, an extension to the three-month period will be sought to ensure the request can be properly considered and to allow adequate time for the process to be concluded.

An employee who is thinking about changing their working pattern should discuss the possibility of doing so with their Headteacher as soon as possible. The employee will need to propose how any such request might be accommodated. This will enable both parties to explore the opportunities that are available to them.

If an employee would like the change to their working arrangements to commence after a period of leave (e.g. maternity leave) they should make the application in good time and, wherever possible, mention it to their Headteacher before they commence their leave.

## 5. Flexible working request process

A flowchart showing an overview of the process is available at Appendix 1.

### 5.1 Discussing the request

On receipt of a request, the Headteacher will arrange to discuss the request with the employee as soon as possible so that their application can be properly and fairly considered. This will normally be in a meeting or by another method agreed with the employee.

The discussion will provide an opportunity to explore the desired work pattern in depth and how it might be accommodated.

It may be necessary to discuss other possible alternative working arrangements if there are problems in accommodating the employee's exact requested pattern/arrangements as outlined in their application.

A discussion may not always be needed, for example when an employer is happy to accept a request, but it may be helpful to discuss a request with an employee anyway to confirm how the proposed working arrangements will work in practice and clarify any outstanding practical considerations.

### 5.2 The decision

The Headteacher will consider all requests fairly and equitably taking into account all the individual circumstances and operational needs. The Headteacher will share this with the CEO before a decision is made.

Each request will be considered on a case-by-case basis: agreeing to one request will not set a precedent or create the right for another employee to be granted a similar change to his/her working pattern.

The duty upon the employer is to consider requests for flexible working. There is no obligation to accept such requests; however, applications will only be rejected for a valid reason as set out at section 5.2.2. below.

## 5.2.1 Request agreed

If after the discussion/meeting with the employee, the Headteacher agrees to the proposal (or an alternative arrangement which has been discussed and agreed with the employee) the employee will be notified in writing or on the flexible working acceptance form (Form SFW2 – see Appendix 3) of the variation that has been agreed and the date on which it will take effect as soon as is reasonably practicable after the meeting.

If the variation requires new / amended contractual/payroll documentation this will be provided to the employee, wherever possible before the variation takes effect.

### (i) A permanent change

A new working pattern/arrangement will be a permanent change. There is no statutory right to revert back to any former working arrangements. There may be occasions where an employee makes a request for a permanent change to their working pattern / arrangements under this policy and during the discussion with the employee an agreement is made that the new working pattern/arrangement will be for a temporary/trial period.

In such circumstances, the Headteacher will confirm the period that the new arrangement will apply in their letter confirming the outcome of the request or on form SFW2. As the initial request has been made under this policy it will count as an application (see section 3 above) precluding the employee making a further request in the following 12-month period (unless the employer exercises their discretion to hear such a request).

If the request is granted for a temporary or trial period, the Headteacher will normally set review points at which the new arrangements can be reviewed and discussed and any necessary adjustments can be made. Unless otherwise agreed, the employee will revert to their original working pattern/arrangement at the end of the temporary or trial period.

### (ii) Request for temporary changes

Where an employee specifically requests a temporary change to their working patterns/arrangements (i.e. the employee will be returning to their previous working arrangements after a specified event or period of time) this falls outside the scope of the flexible working legislation. Such requests will be considered outside this policy and if the temporary change can be accommodated the employee will be issued with confirmation of the temporary variation to their terms and conditions. Unless otherwise agreed, the employee will then revert to their original working pattern/arrangement at the end of the temporary or trial period. If the request cannot be agreed, the employee will be notified and there will be no right of appeal.

Any temporary requests which have been agreed will not count as a formal flexible working application and therefore if a subsequent request for a permanent change to working patterns/arrangements is made it will be considered under the procedure set out in this policy.

## 5.2.2 Request denied

All requests to work flexibly will be considered objectively and requests will only be refused where there is a valid ground. The valid grounds for rejecting a request are as follows:

- The burden of additional costs
- Detrimental effect on ability to meet customer demands
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality

- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes

If the Headteacher is unable to agree to the request, the flexible working rejection form (SFW3 – see Appendix 4) will be completed and provided to the employee as soon as reasonably practicable with an explanation of grounds for refusal, explaining why they apply in the circumstances, and setting out the appeal procedure (or a letter setting out the appropriate information if form SFW3 is not being used).

## 5.3 Appeal

The time limit for submitting an appeal will be notified to the employee on form SFW3 or the letter confirming their request has been rejected. Bearing in mind the duty to deal with the application within 3 months of it being made including any appeal (unless an extension has been agreed), the employee will normally have at least 5 working days from the date they are notified of the decision to appeal in writing to the Headteacher setting out the grounds of their appeal.

The person who will hear the appeal will depend on who made the initial decision:

<b>Initial decision:</b>	<b>Appeal heard by:</b>
Headteacher	Deputed Governor

If the employee's appeal is successful and the request is agreed at this stage, the employee will be notified in writing of the variation and the date it is to start as soon as possible. A flexible working appeal reply form (SFW4) is available at Appendix 5.

If the person/body considering the appeal cannot initially agree to the request, they will convene an appeal meeting as soon as possible after receiving the employee's written notice of appeal. This meeting will provide an opportunity for the employee to explain their application and reasons for appeal. The person who made the initial decision will also be present at the meeting to explain the reasons behind the decision.

As soon as possible after the appeal meeting (and normally within 5 working days unless otherwise agreed) the employee will be notified in writing of the outcome of the appeal (see SFW4 part B at Appendix 5). There is no further right of appeal.

## 6. Right to be accompanied

An employee may choose to be accompanied at the initial discussion/meeting and any appeal meeting by a work colleague of his / her choice or by a trade union representative. The companion may address the meeting and confer with the employee during the discussion/meeting but will not be permitted to answer questions on the employee's behalf.

If an employee's chosen companion is unavailable at the time proposed for a meeting then the employer may postpone the meeting to an alternative agreed time. The new agreed time should be as soon as possible and normally within 7 days beginning after the day initially proposed by the employer.

## 7. Withdrawal of requests

An employee who withdraws their application will not be eligible to make another application for 12 months from the date their application was made. Confirmation of the withdrawal must be made in writing to the Headteacher.

Where a meeting has been arranged to discuss the request, if an employee cannot attend the meeting the employee must contact the Headteacher as soon as possible to explain the reason they cannot attend. The meeting will be re-arranged at the next mutually convenient time. An employee who fails to attend a meeting and any subsequently

rearranged one without a reasonable explanation will be treated as having withdrawn their application. The Headteacher will consider the reasons for the employee failing to attend both meetings before reaching any decision to consider their application withdrawn. In such circumstances, the Headteacher will write to the employee confirming that their application is considered withdrawn.

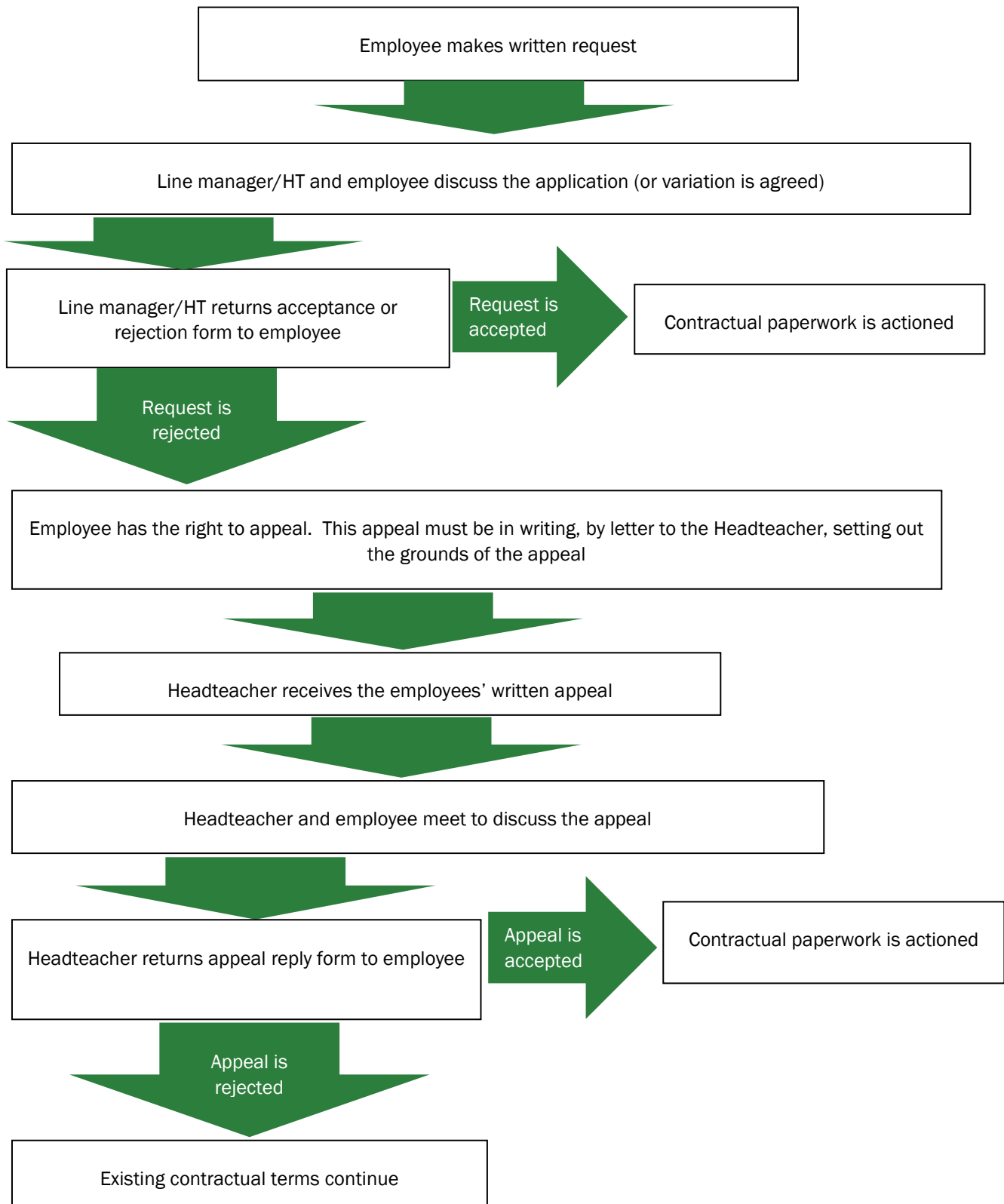
## **8. Record keeping and Data Protection**

The Trust processes personal data collected during the flexible working application process (including written records of meetings held under the process) in accordance with its data protection policy. In particular, data collected from the point at which the Trust receives a flexible working request is held securely and accessed by, and disclosed to, individuals only for the purposes of managing the flexible working request. On the conclusion of the process, data collected will be held in accordance with the Trust's retention schedule.

In appropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Trust's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's disciplinary procedure.

## Appendix 1 Flexible Working process overview

To be completed within 3 months of receipt of application (unless extension agreed)



## Appendix 2 Flexible working application form SFW1

This form should be used to make an application to work flexibly.

### Part A – to be completed by employee

Name:	
Post:	

I would like to apply to change my working pattern/arrangements on a permanent basis. I confirm that I meet the eligibility criteria as follows:

I have not made a flexible working request under this right during the past 12 months

If I have made a request within the last 12 months, the previous date was \_\_\_\_\_

I have worked continuously for my current employer for 26 weeks

If you are making this request in relation to the Equality Act 2010, for example, as a reasonable adjustment for a disability, please tick this box.

Signed:	
Print Name:	
Date:	



**Part B – to be completed by employee**

Describe your current working pattern (days, hours, times worked):

--

Describe the working pattern you would like in future (days, hours, time worked):

--

I would like the working pattern to commence from:

--

**Impact of the new working pattern**

I think this change in my working pattern will affect my employer and colleagues as follows:

--

**Accommodating the new working pattern**

I think the effect on my employer and colleagues can be dealt with as follows:

--

**Part C – to be completed by the Headteacher**

Employee's Name:	
------------------	--

Dear

I confirm that I have received your request to change your working pattern on ..... (Enter date).

I shall be arranging a meeting with you to discuss your application in due course. In the meantime, you might wish to consider whether you would like to be accompanied at this meeting by another employee or a trade union representative.

Signed:	
Print Name:	
Date:	

**Part D – to be completed by line manager if employee withdraws their application to apply**

Employee's Name:	
------------------	--

Dear

I confirm that I have received notice that you wish to withdraw your flexible working application which you submitted to me on ..... (enter date).

Under our legal duty to consider flexible working requests, you will not be eligible to submit another application until twelve months after the date above.

Signed:	
Print Name:	
Date:	

## Appendix 3 Flexible working acceptance form SFW2

To be completed by the employer if application is accepted.

Employee's Name:	
------------------	--

Dear

Following receipt of your application and our discussion on ..... (Enter date) I have considered your request for flexible working.

I am pleased to confirm that I am able to agree to your application

I am unable to agree to your original request. However, I am able to offer the alternative pattern which we have discussed and you agreed would be suitable to you.

Your new working pattern will be as follows:

--

Your new working arrangement will begin from:	
---	--

The change in your working pattern will be a permanent change to your terms and conditions of employment and you have no right in law to revert back to your previous working pattern.

If a temporary/trial contract variation has been agreed during our discussion details are shown below:

--

NB: Your new contractual paperwork will be sent to you shortly.

If you have any questions on the information provided on this form please contact me to discuss them as soon as possible.

Signed:	
Print Name:	
Date:	

## Appendix 4 Flexible working refusal form SFW3

To be completed by employer if application is refused.

Employee's Name:	
------------------	--

Dear

Following receipt of your application and our discussion on ..... (Enter date) I have considered your request for a new working pattern/arrangement.

After careful consideration I am sorry to advise you that I am unable to accommodate your request on the following business ground(s):

--

The grounds apply in your circumstances because:

--

Please continue on a blank sheet if necessary.

If you wish to appeal against this decision you must do so as soon as possible. As the process (including any appeal) must be concluded within 3 months of the date of first receiving your application, any such appeal must be received by ..... (Enter date). Your appeal should be in writing, to the Headteacher and must clearly set out your grounds of appeal.

NB: You may wish to consider whether you wish to be accompanied at your appeal meeting by a work colleague or trade union representative.

Signed:	
Print Name:	
Date:	

## Appendix 5

## Flexible working appeal outcome form SFW4

To be completed by Headteacher

Dear

Following our meeting on ..... (enter date) I/we have considered your appeal against the decision to refuse your flexible working application.

Complete Part A or B as appropriate:

### Part A

I accept your appeal against the decision. Your request to change your working pattern has been agreed as follows:

Your new working arrangements will begin from:

The change in your working pattern will be a permanent change to your terms and conditions of employment.

NB Your contractual paperwork will be sent to you shortly.

To be signed by the Headteacher/Governor or Chair of Governing Body Committee who has made the Appeal decision.

Signed:	
Print Name:	
Date:	

**Part B**

After careful consideration I am sorry to advise you that I am unable to allow your appeal on the following ground(s), or for the following reasons:

--

Please continue on a separate sheet if necessary.

To be signed by the Headteacher/ /Governor or Chair of Governing Body Committee who has made the Appeal decision.

Signed:	
Print Name:	
Date:	

This decision is final, there is no further right of appeal.