



**The
Three
Rivers**
Learning Trust

Name of Policy	Flexible Working Policy
Policy Number	Code
The Three Rivers Learning Trust	
Named Person(s)	AVEC
Review Committee	Full Board
Last review date	Autumn 2018
Next review date	Autumn 2021 or earlier to comply with any changes to employment law / legislation

Policy Outline

What is the policy about?

The right to request flexible working aims to provide employees with increased opportunities to balance work and family life, whilst being compatible with and beneficial to business efficiency.

Eligible employees may request a variation to their contract to change the hours they work, the times they are required to work or the location of work (e.g. at home or Learning Trust premises).

Every employee has the right to request flexible working after 26 weeks of employment service.

This policy gives information on the legislation and explains how the procedures can operate within the Learning trust. It also attaches the forms to be used when processing applications (**Appendices 3**).

In order to be eligible to make a request, employees normally meet the following criteria:

- have 26 weeks' continuous service at the date of application. Only service with the Learning Trust (as opposed to previous continuous service with other Learning Trusts/local government bodies) will apply;
- not be an agency worker;
- have not made an application to work flexibly under the legislative right during the past 12 months.

However, consideration will be given to exceptional circumstances.

Who does this policy apply to?

This policy applies to all staff within the Learning Trust

Scope of the policy

The legislation **does not provide an automatic right to work flexibly**, as there will always be circumstances when the Learning Trust is unable to accommodate the employee's desired work pattern.

However, **the Learning Trust will have a duty to consider requests seriously** via the procedure set out in this circular and will only be able to refuse where there is a clear business reason for doing so.

Reasons for refusing a request can include one or more of the following:

- burden of additional costs to the Learning Trust;
- detrimental effect on ability to meet customer demand;
- inability to re-organise work amongst existing employees;
- 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 change.

If a contract variation is agreed, it will normally be permanent and there will be no right to revert back to the former arrangement **unless otherwise agreed**. If a request is rejected, a further request cannot be made for 12 months regardless of whether a previous application was made for the same caring responsibility or a different one.

This legislation is in addition to, and will apply completely independently from, other legislation such as sex, disability, age and race discrimination legislation.

Trial Periods

Trial periods of, say, 12 weeks, can help both the Learning Trust and employees because they provide an opportunity – without commitment – to test a particular working pattern to see if it works to the satisfaction of both parties.

In some cases, particularly where caring for an adult is involved, a permanent change may not be the best solution. Where, for example, an employee suddenly becomes the carer of an adult with a terminal illness, the Chief Executive Officer (CEO) may consider that a temporary period of flexible working, agreed informally outside the formal procedure, might be appropriate.

Alternatively, the CEO and employee might agree to a time-limited change after which time the employee would revert back to the original pattern. Or other arrangements might be more appropriate, such as Time Off for Dependents.

An informal temporary arrangement might also be appropriate where the demands on an employee's time are unpredictable, for example, if caring for someone with a fluctuating condition like Parkinson's disease.

Trial periods can potentially happen at two stages before a formal agreement is reached:

- the CEO could give informal agreement to a trial before a formal flexible working request has been made by the employee; if this happens, the formal procedure would still be available to the employee if they wished to use it at some stage in the future;
- if a formal application has been made, an extension of time for the CEO to make a decision could be agreed and the trial period could happen before a final agreement takes place; in this case, the rest of the formal procedure would still be available to the employee.

Procedure

A flowchart detailing the application process is attached at **Appendix 1**. All the forms referred to in this policy are attached as **Appendix 3**.

Throughout this Policy there are references made to the Chief Executive Officer (CEO). However, the CEO will delegate the responsibility for flexible working requests to the Headteacher of an individual school, as appropriate, and to the Business Trustee for Associate Staff requests where appropriate, whilst retaining responsibility for requests from a Headteacher and the Business Trustee. It should, at the point of delegation, be made clear what authority the manager/ leader has to make decisions regarding flexible working requests as these will be contractually binding at the point they are communicated to the employee. The CEO cannot delegate the hearing of the appeal.

Making the Application

Any eligible employee who wishes to apply to work flexibly must make a considered application in writing using the Request for Flexible Working Form (FW1) (**Appendix 2**). As Government guidance suggests that a request can take up to 14 weeks to implement, or longer, employees should ensure that they make their application well in advance of when they would like the requested flexible working pattern to start.

The CEO must meet with the employee to discuss the request within 28 calendar days. This provides an opportunity to explore the desired work pattern in depth and how best it might be accommodated. It also provides an opportunity to consider alternative working patterns should there be problems in accommodating the desired work pattern outlined in the employee's application, discuss any problems and consider alternatives.

The CEO must give the decision in writing within 14 calendar days of the meeting to either agree to a new work pattern or refuse the request. If a variation is agreed,

the CEO must set out the agreement and the date from which it is to take effect using the Request for Flexible Working Form (FW1) (**Appendix 2**) and notify the Learning Trust payroll provider.

If the CEO refuses the request, s/he must give the grounds for refusal, explain why it applies in the circumstances and give details of the right of appeal.

Right of Appeal

The employee has the right to appeal against the CEO's decision within 14 calendar days of receipt of the Request for Flexible Working Form (FW1). The employee must make an appeal by completing the Appeal against Flexible Working Decision (FW2) (**Appendix 3**) and forwarding this to the CEO.

Decision makers, panel members and those hearing an appeal cannot have a family relationship with the member of staff involved and must be replaced by a suitable, unconflicted, person.

If the CEO then decides to accept the request, s/he must notify the employee of the variation and the date it is to start, within 14 calendar days of receiving the employee's notice of appeal, and notify the Learning Trust payroll provider.

If the CEO does not initially accept the appeal, s/he must notify the employee in writing and organise an appeal meeting within 14 calendar days of receiving the Appeal against Flexible Working Decision (FW2).

As with Stage 2 of the Learning Trust Grievance procedures, the appeal will be heard by the CEO. However if the CEO has previously been involved in the process then the appeal would be to Committee A of the Board of Trustees.

The decision must be given to the employee in writing within 5 calendar days of the appeal meeting, The employee has five calendar days from receipt of the decision to notify Committee A in writing of their intention to invoke Stage 3 of the Learning Trust Grievance Procedure for a hearing with the Appeal Committee of the Board of Trustees (Committee B). Which will be heard as soon as is practicably possible.

This third stage decision is final. However, the employee can ultimately complain to an Employment Tribunal if s/he feels that the Learning Trust has failed to comply with the legislation governing flexible working, or the Learning Trust decision to reject an application was based on incorrect facts. The tribunal would verify whether the Learning Trust has followed all the proper procedures and examine any disputed facts relating to why the business grounds for refusal apply. However, the tribunal could not question the Learning Trust business reason itself.

Extension to Time Limits

There may be a number of reasons why the specified time limits set out in this circular are too short and an extension may be required through mutual agreement between the Learning Trust and the employee.

Time limits will automatically be extended where the CEO (or other person who would ordinarily be expected to consider the application) is absent because of annual or sick leave when the application is received. In such cases, the 28-day period begins when the employee returns to work, or 28 days after the application is made, whichever is the sooner.

In other circumstances, time limits can be extended where the employee and CEO agree (for example, to accommodate a trial period) and must be recorded.

Meetings

All meetings must be arranged by the Learning Trust at a time and place suitable to both parties. All notices should be in writing and should be dated.

The employee will have the right to be accompanied at any meetings and appeals by a union representative or an employee who also works for the Learning Trust (e.g. colleague or friend of their choice) who does not have a conflict of interest.

Withdrawal of Application

If the employee withdraws their application, the employee should write to the CEO to confirm this. The CEO should acknowledge the request to withdraw the application.

In circumstances where an employee misses two meetings without reasonable cause, or unreasonably refuses to provide the CEO with the information required to assess whether the contract variation can be granted, the application can also be regarded as withdrawn and the CEO must confirm this in writing.

Storage of Documentation

All original paperwork relating to the application for flexible working must be stored on the employee's personal file and for equal opportunities monitoring purposes in accordance with GDPR regulations.

Publicising/distribution of the policy

A copy of this policy is available from key personnel within the Learning Trust and will be made available to employees on request. A copy will also be placed on the HR Google Site.

New staff will be informed of the existence of this policy as part of their formal induction.

Parties involved in the processes within this policy will be allocated a copy as part of the formal notification process.

Reviewing the policy

The operation of this policy will be kept under review and such changes will be made to the policy as deemed appropriate following necessary consultation with the trade unions.

[Appendix 1](#)

[Appendix 2](#)

[Appendix 3](#)