

**Flexible Working Policy**

***This policy is currently under review and will be launched on 1<sup>st</sup> June 2024. Please continue to use the below policy until further notice. Please note, updates have been made to the time frames within this policy in line with legislation.***

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<b>Lead Executive/ Senior Manager</b>	Chief People Officer		
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<b>Consultation</b>	HR Policy Group	<b>Applicable to:</b>	All staff All Sites
<b>Equality, Diversity And Human Right Statement</b>	The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This procedure should be implemented with due regard to this commitment.		
<b>To be read In conjunction with / Associated Documents:</b>	<ul style="list-style-type: none"> <li>• Special Leave Policy</li> <li>• Career Break Policy</li> <li>• Sickness Management Policy</li> <li>• Annual Leave Policy</li> <li>• Retirement Policy</li> </ul>	<b>Information Classification Label</b>	<input type="checkbox"/> <b>Unclassified</b>
<b>Access to Information</b>	To access this document in another language or format please contact the policy author.		

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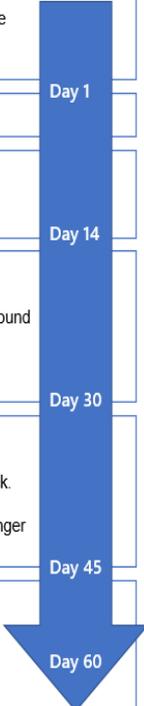
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# 1. Policy on a page

## Stages of Flexible Working Process

<p><b>Preparation – Employee</b></p> <ul style="list-style-type: none"> <li>•Research proposed FW pattern looking at the: when, where and how and considers the balance on impact on personal well-being as well as patients &amp; service users, colleagues and the team, using the NHS Employee Toolkit</li> <li>•Employee logs request on ESR – Self-service</li> </ul>	
<p><b>Preparation – Manager</b></p> <ul style="list-style-type: none"> <li>•Manager acknowledges request on ESR using supervisor self-service and sets date for formal meeting to explore the request fully.</li> </ul>	
<p><b>Formal Meeting (Full Exploration of Options) –Employee &amp; Line Manager</b></p> <ul style="list-style-type: none"> <li>•Explore options and suitability of request based on role requirements.</li> <li>•Identify and evaluate options to achieve request considering the when, where and how.</li> <li>•Update ESR</li> </ul>	
<p><b>Outcome of Formal Meeting - Line Manager -Decision within 30 days of formal submission.</b></p> <ul style="list-style-type: none"> <li>•If agreement reached by manager then ESR updated with FULL Details on new working pattern.</li> <li>•Manager to complete Greenlight form if there are contractual changes impacting pay/annual leave/pension.</li> <li>•Manager to seek informal support and/or second opinion (from their manager or Business HR) to discuss if they believe a solution within the team cannot be found including consideration outside the team.</li> <li>•If the manager is unable to support the flexible working request, this should be escalated and discussed with the next tier manager</li> <li>•They should move to escalation stage – Update ESR to show "Escalated" – You should <b>NOT</b> decline the staff's request.</li> </ul>	
<p><b>Escalation – to Senior Manager</b></p> <ul style="list-style-type: none"> <li>• Escalate to next tier manager (for example Matron, Head of Operations, Office Manager or Head of Service).</li> <li>•<b>Where a mutually agreed solution still has not been found:</b></li> <li>•Written reasons that can be objectively justified must be provided from senior management, including alternatives considered to also include an Equality Check.</li> <li>•ESR updated to show "Rejected". Staff member should be made aware of right to appeal.</li> <li>•Employees have a right to move this to the appeal phase on the grounds of process, fairness, reasonableness and equality issues. Appeal to the next tier manager above the deciding manager</li> </ul>	
<p><b>Appeal- to be heard within 60 days of original request- can extend with mutual consent</b></p> <ul style="list-style-type: none"> <li>•Appeal will be heard and managed by an independent appropriate senior manager within the service with support from Business HR within 14 days of receipt. Time limit can be extended by mutual agreement and confirmed in writing.</li> <li>•Colleague will have the option to have representation from Trade Union Representative or a fellow colleague.</li> <li>•Panel will review process compliance, and whether all options have been fully considered and provide support to try and enable the request.</li> <li>•Exceptional circumstances, requirement for independent senior manager from another service to support the appeal hearing.</li> </ul>	

## 2. Purpose

The objective of this policy is to ensure that the Trust obtains the most effective workforce by ensuring all employees have a healthy work life balance but ensuring the needs of the service are met. The Trust understands that being a supportive employer and offering greater flexibility will assist the Trust in delivering higher quality healthcare. This policy applies to all employees of the Trust and will be adapted to handle issues relating to all other workers, i.e., all bank staff, agency workers, trainees, volunteers, and self-employed NHS professionals.

The Trust is committed to creating an environment where staff are valued, supported and benefit from good employment practices that promote a healthy work-life balance and ensure fair and equitable treatment throughout. The Trust recognises that personal circumstances and family commitments can change over time and considers that staff should have the opportunity to seek changes in their working arrangements or contractual conditions to reflect changes in their personal circumstances or family commitments. This policy gives all staff the right to request a more flexible working arrangement to enhance their own work-life balance and fit in with the needs of the service in accordance with the framework set out in this policy, and to be guaranteed a full and written explanation where this is deemed not practical. The policy also provides a right of appeal.

In offering flexible working to all staff, evidence suggests that there are various benefits to both employer and employee including: increased job satisfaction, morale, productivity and reduced sickness absence and staff turnover. The Trust considers

this policy to be important in both meeting the needs of staff and realising the potential business benefits. The Trust will promote a variety of working arrangements that maximise the contribution experienced staff can make throughout their working lives and offer choice, flexibility and greater individual control whilst also meeting the needs of patients and stakeholders. This policy supports managers in utilising flexible working practices in creative and innovative ways.

All advertisements for vacancies will include reference to the commitment to flexible working principles.

The Trusts service to patients must remain paramount. However, managers will not refuse requests from staff to consider different ways of working and in the event that a request cannot be acceded to, a response will always be given.

The policy sets out the key processes for flexible working and provides guidance to managers to help them support staff and themselves in the workplace.

## 3. Policy Content

### 3.1 Types of Flexible Working

Flexible working could involve a change in working arrangements such as:

- A minor adaptation to routine shift working.
- An increase or reduction in hours (NB any request for an increase in hours will require financial approval).
- A change in working days.
- Full time working over a reduced number of days.
- The negotiation of a formal arrangement such as job share, term-time, flexitime working.

Any request to work flexibly covered specifically by the legislation pertaining to caring for a child under the age of 16 (18 for disabled children) or caring for adults, which is approved by the Trust, will normally be on a permanent basis. However, the employee or the Trust may request a temporary arrangement subject to a review based on individual circumstances. Such a review provides an opportunity to ensure that the arrangement is meeting the requirements of both the service and the individual and allows for flexibility as circumstances change.

Examples of flexible working options which may be available to staff are provided at Appendix 4.

### 3.2 Rights of Employees

All employees have the right to request flexible working arrangements regardless of their length of service with the Trust.

Only one request is permitted per employee in any twelve month period. Consideration may be given to more than one application in any twelve month period in exceptional circumstances.

### 3.3 Making a Flexible Working Request

Employees who wish to alter their working hours by either reducing their hours or varying the pattern they work should complete the flexible working request form (see Appendix 5). The form requests information from the employee on how their proposal meets the need of the service and suggestions, if necessary, as to how work could be reallocated. Applicants should clearly state the reason for requesting flexible working and the amendment to working practices or contractual arrangements that is being sought.

Any agreements reached on flexible working arrangements will be either a permanent or temporary change to the contract of employment. Any temporary agreement which is reached for flexible working arrangements will be subject to a review period. The review will be to discuss the success of the flexible working practice and ensure that it is both satisfactory for the member of staff and the department.

Any member of staff wishing to request a flexible retirement must refer to the Retirement Policy.

### 3.4 Criteria to Consider Against Requests

Appendix 6 identifies a number of criteria for staff and managers to consider when requesting or considering a request for flexible working. Whilst this list is not exhaustive, it must be referred to when responding to requests.

### 3.5 Meeting with Line Manager

Once an employee's line manager is in receipt of the completed request form, they should arrange a meeting with the employee as soon as practical, but within 10 days to discuss the request for change and to consider the issues detailed in the flexible working request form.

The content of the meeting should also include a discussion about the contractual issues such as hours, breaks, health and safety, training, changes to annual leave entitlement and any other terms and conditions affected following the proposed change. Advice must be obtained from the Business Human Resources Service. Any discussions should be documented and agreed by both parties.

### 3.6 Decision to Agree a Request

Upon agreeing a request the manager must confirm in writing the outcome within 14 days of the meeting and sign the request form to give authorisation. Example letters to be used within this procedure are attached as Appendices 8 and 9 depending on the nature of the agreement. Any special requirements upon a member of staff such as revised hours to attend training sessions, meetings etc. should be discussed and confirmed in writing. Once the request is agreed, managers need to complete an Amendment to Contract form and send to the Employment Services Team who will amend pay accordingly. Managers will also need to send a copy of the flexible working request form and a copy of the agreement letter to Employment so an amendment to contract can be issued. In some circumstances, where the change in working is pay

impacting, it may be necessary for the decision to be made by a panel made up of senior management as they look to assess budgets for the department.

In circumstances where the employee's request cannot be agreed it may be possible for the manager and the employee to agree on an alternative arrangement. An example letter of confirmation in these circumstances is included at Appendix 11.

### 3.7 Decision to Turn Down a Request

This Policy provides for flexible working requests to be considered in any given situation and accordingly there is an expectation on managers that wherever a request is submitted they will do their utmost to facilitate appropriate arrangements. However it may not always be possible to agree a request taking into account the criteria set out in Appendix 6 for example:

- There is clear evidence that the proposed arrangements would be detrimental to service provision, quality or patient safety.
- It would be impossible to re-arrange the work amongst the remaining staff without additional cost/burden.
- It would be impossible to recruit staff to cover the residual work.
- There is insufficient work during the periods the applicant proposes working.
- The burden of additional costs.

In circumstances when it cannot be agreed, advice must be sought from the Business HR Services prior to informing the employee.

The decision must be provided to the employee within 7 days of the meeting although this time frame can be extended by mutual agreement. Managers must provide an objective justification as to why the request has been turned down. See Appendix 10 for template letter.

Where an application is unsuccessful the same application to work flexibly cannot be made again within a 12 month period, (from date of final refusal). However, if operational/organisational circumstances change within that 12 month period, a review of the previous decision can be sought.

### 3.8 Extension of Time Limits

The various time limits may be extended where the Trust and employee agree to this in writing. Also, where the person who is expected to consider the request is away on annual leave or sick leave, the 14 days as detailed above, will run from the date of their return.

### 3.9 Right of Appeal

In cases where the employee is unhappy with the decision reached, a right to appeal exists. This should be in writing, addressed to the next level of line management within 14 days of written receipt of the original decision.

The Directorate or Department Manager will hear the appeal and arrange a meeting to discuss the grounds for appeal within 14 days of receipt. The outcome will be

communicated in writing to the employee within a further 7 days. If the appeal is accepted, the line manager will meet with the employee to discuss the new proposed work pattern and start date.

There is no further right of appeal at this stage. If an employee feels that the Policy has not been adhered to, they have the right to invoke the Grievance Policy.

## 4 Exceptions

There are no exceptions. Any staff member can apply for a flexible working arrangement.

## 5 Training

The Business HR Team can provide advice and guidance to all staff and managers across the Trust in relation to the application this policy.

## 6 Monitoring of compliance

Minimum requirement to be monitored	Process for monitoring e.g. audit/ review of incidents/ performance management	Job title of individual(s) responsible for monitoring and developing action plan	Minimum frequency of monitoring	Name of committee responsible for review of results and action plan	Job title of individual/ committee responsible for monitoring implementation of action plan
Annual	Internal review commissioned by Workforce Committee	Deputy Director of Workforce	Annual	Workforce Committee	Deputy Director of Workforce

## 7 Relevant regulations, standards and references

- Children and Families Act 2014
- Working Time Regulations
- Part Time Work Regulations 2000
- Equality Act 2010

### Other References:

- NHS Employers NHS Terms & Conditions of Service Handbook
- Flexible Working and Work-life Balance, ACAS
- Flexible Working Factsheet, CIPD

## 8 Equality, diversity and human right statement

The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This SOP should be implemented with due regard to this commitment.

## **9 Legal requirements**

This document meets legal and statutory requirements of the EU General Data Protection Regulation (EU 2016/679) and all subsequent and prevailing legislation. It is consistent with the requirements of the NHS Executive set out in Information Security Management: NHS Code of Practice (2007) and builds upon the general requirements published by NHS Digital/Connecting for Health (CfH).

## Appendix 1: Equality impact assessment

<b>Title</b>	Flexible Working Policy
<b>Strategy/Policy/Standard Operating Procedure</b>	Policy
<b>Service change (Inc. organisational change/QEP/ Business case/project)</b>	
<b>Completed by</b>	
<b>Date Completed</b>	

**Description** *(provide a short overview of the principle aims/objectives of what is being proposed/changed/introduced and the impact of this to the organisation)*

The objective of this policy is to ensure that the Trust obtains the most effective workforce by ensuring all employees have a healthy work life balance, but ensuring the needs of the service are met.

**Who will be affected** *(Staff, patients, visitors, wider community including numbers?)*

All staff (non-medical)

The Equality Analysis template should be completed in the following circumstances:

- **Considering developing a new policy, strategy, function/service or project(Inc. organisational change/Business case/ QEP Scheme);**
- **Reviewing or changing an existing policy, strategy, function/service or project (Inc. organisational change/Business case/ QEP Scheme):**
  - If no or minor changes are made to any of the above and an EIA has already been completed then a further EIA is not required and the EIA review date should be set at the date for the next policy review;
  - If no or minor changes are made to any of the above and an EIA has NOT previously been completed then a new EIA is required;
  - Where significant changes have been made that do affect the implementation or process then a new EIA is required.

Please note the results of this Equality Analysis will be published on the Trust website in accordance with the Equality Act 2010 duties for public sector organisations.

Section 1 should be completed to analyse whether any aspect of your paper/policy has any impact (positive, negative or neutral) on groups from any of the protected characteristics listed below.

*When considering any potential impact you should use available data to inform your analysis such as PALS/Complaints data, Patient or Staff satisfaction surveys, staff numbers and demographics, local consultations or direct engagement activity. You should also consult available published research to support your analysis.*

**Section 1 – Initial analysis**

<b>Equality Group</b>	<b>Any potential impact? Positive, negative or neutral</b>	<b>Evidence</b> <i>(For any positive or negative impact please provide a short commentary on how you have reached this conclusion)</i>
<b>Age</b> <i>(Consider any benefits or opportunities to advance equality as well as barriers across age ranges. This can include safeguarding consent, care of the elderly and child welfare)</i>	Neutral	
<b>Disability</b> <i>(Consider any benefits or opportunities to advance equality as well as impact on attitudinal, physical and social barriers)</i>	Neutral	
<b>Gender Reassignment</b> <i>(Consider any benefits or opportunities to advance equality as well as any impact on transgender or transsexual people. This can include issues relating to privacy of data)</i>	Neutral	
<b>Marriage &amp; Civil Partnership</b> <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on same sex couples)</i>	Neutral	
<b>Pregnancy &amp; Maternity</b> <i>(Consider any benefits or opportunities to advance equality as well as impact on working arrangements, part time or flexible working)</i>	Neutral	
<b>Race</b> <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on ethnic groups including language)</i>	Neutral	
<b>Religion or belief</b> <i>(Consider any benefits or opportunities to advance equality as well as any barriers effecting people of different religions, belief or no belief)</i>	Neutral	
<b>Sex</b> <i>(Consider any benefits or opportunities to advance equality as well as any barriers relating to men)</i>	Neutral	

<i>and women eg: same sex accommodation)</i>		
<b>Sexual Orientation</b> <i>(Consider any benefits or opportunities to advance equality as well as barriers affecting heterosexual people as well as Lesbian, Gay or Bisexual)</i>	Neutral	

If you have identified any **positive** or **neutral** impact then no further action is required, you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address.

If you have identified any **negative** impact you should consider whether you can make any changes immediately to minimise any risk. This should be clearly documented on your paper cover sheet/Project Initiation Documents/Business case/policy document detailing what the negative impact is and what changes have been or can be made.

**If you have identified any negative impact that has a high risk of adversely affecting any groups defined as having a protected characteristic then please continue to section 2.**

### Section 2 – Full analysis

If you have identified that there are potentially detrimental effects on certain protected groups, you need to consult with staff, representative bodies, local interest groups and customers that belong to these groups to analyse the effect of this impact and how it can be negated or minimised. There may also be published information available which will help with your analysis.

<b><u>Is what you are proposing subject to the requirements of the Code of Practice on Consultation?</u></b>	Y/N
<b>Is what you are proposing subject to the requirements of the Trust’s Workforce Change Policy?</b>	Y/N
<b>Who and how have you engaged to gather evidence to complete your full analysis? (List)</b>	
<b>What are the main outcomes of your engagement activity?</b>	
<b>What is your overall analysis based on your engagement activity?</b>	

### Section 3 – Action Plan

You should detail any actions arising from your full analysis in the following table; all actions should be added to the Risk Register for monitoring.

Action required	Lead name	Target date for completion	How will you measure outcomes

Following completion of the full analysis you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address

**Section 4 – Organisation Sign Off**

Name and Designation	Signature	Date
<b>Individual who reviewed the Analysis</b>		
<b>Chair of Board/Group approving/rejecting proposal</b>		
<b>Individual recording EA on central record</b>		

## Appendix 2: Roles and responsibilities

Role	Responsibility
<b>Employee</b>	All employees who wish to apply for any of the flexible working arrangements are required to follow the stated application process.
<b>Line Manager</b>	<ul style="list-style-type: none"> <li>• Applying the principles of this policy.</li> <li>• Ensuring that staff understand the policy.</li> <li>• Ensuring that staff are updated with regard to any changes to this policy.</li> <li>• Giving reasonable consideration to all requests for flexible working.</li> <li>• Being fair and equitable in taking decisions with regard to flexible working requests.</li> <li>• Monitoring the use of flexible working within their department.</li> <li>• Ensuring that all accept/decline flexible working forms are sent to Workforce</li> <li>• Reviewing the flexible working arrangements in the department.</li> </ul>
<b>Human Resources</b>	<ul style="list-style-type: none"> <li>• Provide awareness/and skills training for managers to ensure the effective implementation of this Policy</li> <li>• Promote the policy and give general guidance and support to managers and staff.</li> <li>• Promote consistent policy application across the Trust in order to achieve a balance between organisational requirements and individual needs.</li> </ul>
<b>Chief Executive Officer</b>	The Chief Executive, as accountable officer, has the responsibility to ensure that there are effective systems in place to support staff and promote work/life balance which can be delegated to an appropriate Executive Director who will ensure that the systems are implemented.
<b>Chief People Officer</b>	The Chief People Officer is responsible for ensuring that this Policy is fully implemented with appropriate systems in place and that there is a continuing commitment to the training of managers in the implementation of policies.

<p><b>Employment Services</b></p>	<ul style="list-style-type: none"> <li>• Promote the policy and give general advice and support to managers and staff.</li> <li>• Monitor and review the implementation and operation of the policy.</li> <li>• Issue amendment to contracts.</li> <li>• Process any required pay changes.</li> </ul>
<p><b>Union Representatives</b></p>	<p>Union representatives have a key role to play in the welfare of staff. They contribute to discussions and subsequent actions on matters concerning all aspects of staff welfare. Union representatives will also inform and advise their members on the interpretation of the Flexible Working Policy.</p>