**FLEXIBLE WORKING POLICY**

<table>
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<th>Head of HR – Employee Relations</th>
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<td>Responsible Lead Executive Director:</td>
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<td>Implementation Date:</td>
<td>December 2016</td>
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# CONSULTATION AND DISTRIBUTION RECORD

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<th>Consultation Process / Stakeholders:</th>
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# CHANGE RECORD

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<td>May `18</td>
<td>Deputy HRD</td>
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<td>Head of HR</td>
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INTRODUCTION

This policy provides details for employees and managers regarding who is eligible to make a request, how to make a request and what necessary information is required in order to make a request for flexible working. It will also give advice on how managers can manage flexible working requests in relation to their existing duties. The timescales associated with the new legislation brought in on 30th June 2014 are also given in the policy, so that these are clear for both managers and employees and must be adhered to.

Extending flexible working to NHS Lanarkshire’s full workforce will bring a wide range of benefits both to the individual employee as well as the overall organisation.

AIM, PURPOSE AND OUTCOMES

This policy aims to support the work-life balance of all NHS Lanarkshire’s employees by providing all employees with the right to request more flexibility within their job, not just those with caring responsibilities.

The Flexible Working Regulations 2014 came into force with effect from 30th of June 2014. This policy will provide all NHS Lanarkshire employees with a process to follow and guidelines for making and managing flexible working requests, under this legislation. This policy combines the requirements of this legislation with what is considered best practice in the Supporting The Work-Life Balance Partnership Information Network (PIN) policy.

It is hoped that an increase in the opportunity to work flexibly will reduce levels of sickness absence and work-related stress and increase employee satisfaction and the level of engagement among employees.

SCOPE

3.1 Who is the Policy intended to Benefit or Affect?

This policy applies to all NHS Lanarkshire employees irrespective of their age, sex, disability, religion or belief, ethnicity/race, sexual orientation, marital or civil partnership status, pregnancy or maternity or gender reassignment. It also applied irrespective of their current working arrangements.

Eligible employees can request to change the hours they work, change their type of contract i.e. part-time/term-time/fixed-term, change the times they are required to work or change the location where they are required to work.

Research has also shown that introducing flexible working can bring a range of benefits to both employees and the overall organisation, details of which can be found in section 4.3.

Successful requests will result in a permanent change unless agreed otherwise with their manager. This means that once their flexible working provisions are put in place employees do not have the right to revert back to their previous working pattern. In order to ensure effectiveness, any changes must be documented, confirmed in writing to the
individual (Appendix 3) and eESS updated. For medical staff in the Consultant and Specialty Doctor/Associate Specialist grades and Community Dental, this is normally achieved through the contractual job planning process. Junior Doctors should make a request for flexible working through NES.

The scope of this policy does not cover normal phased returns and/or temporary adjustments as a result of sickness absence or a recommendation from Occupational Health.

NHS Lanarkshire takes care to ensure your personal information is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health information secure, and confidential. In order to find out more about current data protection legislation and how we process your information, please visit the Data Protection Notice on our website at www.nhslanarkshire.scot.nhs.uk or ask a member of staff for a copy of our Data Protection Notice.

3.2 Who are the Stakeholders?
All of NHS Lanarkshire’s directly employed staff.

4. PRINCIPAL CONTENT

4.1 Key Principles

• All requests must be made in writing to the employee’s line manager.

• Employees can only make one flexible working request within a 12 month period.

• All requests will normally be concluded within 3 months of being made.

4.2 Eligibility

All NHS Lanarkshire employees are entitled to request flexible working arrangements if considered eligible under the criteria set out in the new Flexible Working legislation.

In order to make a request, employees must:

• Have a minimum of 26 weeks service with NHS Lanarkshire. This includes Maternity leave.

• Not have had made a flexible working request within the last 12 months. If an employee has made a request within the last 12 months, they must wait until after this time limit before submitting another request to their manager.

4.3 Benefits of Flexible Working

Flexible working will benefit both individual employees and the organisation as a whole. According to the Chartered Institute of Personnel and Development’s ‘Flexible Working
From employee’s perspective
Flexible working may help employees:
• achieve a better work-life balance
• reduce the amount of stress/pressure they feel under
• make them more productive at work
• helps with their health by allowing more time to exercise or make sensible lifestyle choices
• can reduce the time and cost of commuting to work, particularly during peak travel times.

From organisation’s perspective
Enabling staff to work flexibly could:
• bring an increase in the motivation of staff
• improve levels of attendance
• increase innovation
• improve business continuity
• increase diversity in the workforce
• increase knowledge-sharing
• improve team working
• increase employee engagement
• potentially increased productivity and improved delivery of service.

4.4 Process

The process for requesting flexible working arrangements is a formal one, which all NHS Lanarkshire staff will have to follow. All requests must be submitted on the application form shown in Appendix 1.

REQUESTS MUST INCLUDE:
• The date of the application.
• The changes that employee is seeking to their conditions.
• The date on which the employee would like the terms and conditions to come into effect.
• What effect employee thinks the requested change would have on the organisation.
• How, in their opinion any impact on the organisation may be reduced or removed.
• A statement that this is a statutory request
• Whether or not the employee has made a previous flexible working request
• If they have previously requested flexible working, when the employee made that application.

Employees must be specific about what type of flexible working it is they would like, both in their written request to their line manager and their flexible working meeting. It may be appropriate for managers to suggest/offer alternative types of flexible working in response to an individual’s request, if they are unable to make provisions for the specific type of flexible working the individual is requesting.
FLEXIBLE WORKING POLICY

It may also be possible to implement a temporary change to working hours to be reviewed by both parties after an agreed period of time.

Before a flexible working meeting takes place, employees must be able to explain in their written application briefly why they are requesting a particular type of flexible working and how this would benefit them personally.

If it is not possible to accommodate the type of flexible working requested, it may be possible to accommodate other types of flexible working. In such cases, managers may suggest different options to improve employee’s work-life balance, while meeting service needs and employees would be expected to be able to discuss suitable alternatives with their manager.

If a request is refused, employees can then lodge an appeal.

4.5 Representation

Employees have the right to be represented at any flexible working meeting. This could be a work colleague, friend, or an accredited staff side representative. It is an employee’s responsibility to make arrangements for their representative to be in attendance at any meetings.

4.6 Timescales

The timescales for the process of dealing with flexible working requests are explained and summarised below:

- In order to make a request, employees must have a minimum of 26 weeks service with the organisation. Maternity leave is included in this.

- Only one request for flexible working can be made within a 12 month timeframe.

- Managers must deal with all requests within a 3 month time period, from when they received the request initially to informing the employee of their decision.

- When receiving a request, managers then have 28 days to arrange and normally hold a meeting with the individual requesting flexible working.

- After having a meeting with employees to discuss their request, managers must then let employees know their decision in writing within 14 days of this meeting (Appendix 3).

- Employees who are not happy with the decision have the right to appeal this decision in writing (Appendix 4) within 14 days of being given the decision.

- This appeal will normally be heard within 28 days.
The manager should then again relay the decision after the appeal back to the employee in writing within 14 days of meeting again with the employee.

### 4.7 Extension of timescales

Time limits applied to this process of requesting flexible working arrangements can be extended, but only if both employee and manager agree to do so.

### 4.8 Handling flexible working requests

On some occasions, managers may receive more than one flexible working request from different employees at the same time. When this happens, managers may be able to grant both requests depending on what type of flexible working it is they are looking for. However, before granting both requests, line managers will need to closely consider what effect this will have on the service before making this decision.

In order to fulfill more than one request, managers may be required to discuss with employees any adjustments or compromises that would result in more than one individual’s request being granted.
4.9 Reasons for refusing a request

There are several reasons which may prevent a request for Flexible Working being granted:

- The burden of additional costs.
- Have a detrimental effect on the organisation’s ability to meet a service demand.
- Have a detrimental impact on service quality.
- Have a detrimental impact on the performance of either the employee or the organisation.
- An inability to reorganise work amongst existing staff.
- An inability to recruit additional staff.
- A detrimental effect on ability to meet patient or service demand.
- Periods where there would be insufficient work for the employee to undertake.
- A planned structural change to the business.
- A request has been made in the previous 12 months.

Where a request is refused the manager must be able to objectively justify their decision.

4.10 Appeal

After a meeting between the employee and manager has taken place, and the employee has been informed of the decision, they then have a chance to appeal their manager’s decision if their request has been refused. This could be a result of new information that was not available when the original meeting took place and therefore needs to be discussed or if the employee feels that the way in which their request has been handled does not correspond with the organisation’s policy. All appeals should be made in writing.

The appeal meeting will take place with the managers’ line manager and HR Manager/Head of HR/HR Business Partner. Employees have the right to be accompanied at an appeal meeting by a work colleague, friend or Trade Union Representative. Unless an extension is agreed the original 3 month timescale applies.

4.11 Documentation of flexible working paperwork

It is important that any change in hours or working pattern is documented by line managers. All paperwork including application forms, a copy of the receipt handed back to employees after managers receive a request, invites to meetings and notes from flexible working meetings must all be dated and stored securely in the employee’s personal file.
4.12 Withdrawal of application

Employees have the right to withdraw their application after submitting it to their line manager. This can be done by notifying their line manager in writing.

Managers have the right not to progress requests for flexible working if employees fail to attend a meeting or appeal hearing on more than one occasion, without good reason.

If an employee’s request is withdrawn, they will receive written confirmation from their line manager that their request is no longer being processed.

5. ROLES AND RESPONSIBILITIES

5.1 Employees

- Any request for flexible working arrangements must be made in writing using the application form in Appendix 1
- Requests must contain all the required information (see list in section 4)
- Amend their application, if any of the relevant information required is missed out.
- If an employee making a request has a disability as defined by the Equality Act 2010, this should be made clear in their written request.
- Submit their request to their line manager.
- Attend their flexible working meeting which will normally be arranged by their line manager within 28 days of the request being made.
- To attend rearranged meeting if unable to in first instance and attend appeal hearing meetings. If a meeting is missed on more than one occasion without good reason, the application will not be progressed.

5.2 Managers

- Only process requests which contain all of the necessary information.
- Return incomplete requests back to employees for them to amend and resubmit.
- Arrange a meeting with the individual within 28 days of the fully completed request being submitted.
- To sign off any contractual changes made after successful requests.
- Make the decision, based on evidence as to whether or not there are feasible flexible working arrangements that can be put in place.
- Consider each case on an individual basis.
- Relay their decision back to the individual within 14 days of meeting.
FLEXIBLE WORKING POLICY

• If a request is granted by a line manager, it is then their responsibility to have a discussion with the employee regarding how and when these changes will take place.

• Be able to justify specific reasons why they cannot fulfil a request.

• To give consideration to all applications to ensure that no request is refused without genuine reasons.

• To ensure fairness and consistency throughout the process of dealing with request applications and also managing the different flexible working provisions.

5.3 Human Resources

• To provide advice on Flexible Working provisions to support employees and managers.

• Participate in the monitoring and review of this policy.

5.4 Accredited staff side representatives

• Work in partnership with NHS Lanarkshire to make people aware of the benefits, implementing Flexible Working arrangements can bring.

• Participating in the monitoring and review of this policy.

• Support employees, and provide them with representation during flexible working request meetings, and/or any meetings (including appeal meetings) which follow.

6. RESOURCE IMPLICATIONS

The resource implication of implementing this policy will be fully dependant on the number of requests received.

Additional time pressures will be caused in order to meet with, consider and progress/decline any requests and potential appeals.

No financial pressures will be presented as a result of this policy as managers should only grant flexible working if it is financially viable.

7. COMMUNICATION PLAN

This policy will be available for all NHS Lanarkshire employees to access through Firstport.

8. QUALITY IMPROVEMENT – Monitoring and Review

This policy will be reviewed every three years via the Joint Policy Forum.

9. EQUALITY AND DIVERSITY IMPACT ASSESSMENT

This policy meets NHS Lanarkshire’s EDIA √
10. SUMMARY OR FREQUENTLY ASKED QUESTIONS (FAQS)

This policy will provide a process for all NHS Lanarkshire staff to follow when making a request for flexible working and guidelines for both employees applying and management staff handling requests and making provisions to allow their employees to increase the degree of flexibility within their work. This should improve employee’s balance between work and their home/personal life and help to ensure employees are generally more satisfied within their job role.

Frequently asked questions from Working Families and PIN Supporting the Work-Life Balance have been collated, and can be found in Appendix 6.

11. REFERENCES

Work Life Balance


Chartered Institute of Personnel and Development (2013) Future-proofing business resilience through flexible working, insights from members of the CIPD Senior Diversity Network. London:CIPD


FLEXIBLE WORKING POLICY


Questions and answers
http://www.xperthr.co.uk/search/?keywords=flexible%20working&toolId=2
http://www.staffgovernance.scot.nhs.uk/partnership/partnership-information-network/pin-policies/
http://www.workingfamilies.org.uk/articles/parents-and-carers/flexible-working

General Data Protection Regulations 2018
Appendix 1 – Application Form for Requesting Flexible Working

Personal Details

Name:     Designation:
Payroll number:   Department:
Manager:    Site:

To the employer

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided under section 80F of the Employment Rights Act 1996. I confirm I meet each of the eligibility criteria as follows:

☐ I have worked continuously as an employee of NHS Lanarkshire for the last 26 weeks.

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

Date of any previous request to work flexibly under this right:

If you are not sure whether you meet any of the criteria, information can be found on Gov.UK.

If you are unable to tick all of the relevant boxes then you do not qualify to make a request to work flexibly under the statutory procedure. This does not mean that your request may not be considered, but you will have to explore this separately with your manager.

2a. Describe your current working pattern (days/hours/times worked):

2b. Describe the working pattern you would like to work in future (days/hours/times worked):

2c. I would like this working pattern to commence from:

Date:
# FLEXIBLE WORKING POLICY

## 3. Impact of the new working pattern

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

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## 4. Accommodating the new working pattern

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

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**NOW PASS THIS APPLICATION TO YOUR LINE MANAGER**

Make a copy of this form and provide a copy to your employee in order to confirm your receipt of their application. A copy should be kept in the individual’s personal file.

**Employer’s Confirmation of Receipt (to be completed and returned to employee)**

Dear:

I confirm that I received your request to change your work pattern on:

Date:

I shall notify you of my decision on this application within three months of this date, unless we agree a longer deadline for this decision.

NAME:

DESIGNATION:
CONFIDENTIAL
[Name/Address]

Dear [name]

Flexible Working Application

I write to invite you to a meeting on {date} at {time} in {venue}. The purpose of this meeting is to discuss your flexible working application submitted to XXX.

If you anticipate any problems in being in a position to attend this meeting, please advise me as soon as possible after receipt of this letter.

Yours sincerely

[name]
[title]

Copy to: HR
Date

Private and Confidential
Address

Dear Name

Flexible Working Application

I write to you following our meeting on XXX to discuss your flexible working application.

I am happy to confirm that your request has been granted and the following arrangements will be implemented from XXX:

{Detail new working pattern}

I will make arrangements for eESS to be updated to reflect this change. Please note it is your responsibility to ensure you are being paid correctly. Please check your payslip carefully.

OR

I have considered your application and regret that I am unable to accommodate your request for the following service/operational reasons:

{See section 4.9}

This (these) reason(s) apply in the circumstances because: {Explain here why other work patterns that may have been discussed at the meeting were inappropriate}.

You have the right to appeal this decision but submitting Appendix 4 of the policy to Head of HR/HR Manager/HR Business Partner within 14 days of receiving this letter.

Yours sincerely

MANAGER
NAME

c.c. HR
Appendix 4 – Appeal Form

Personal Details

Name:
Job Title:
Payroll number:
Department:
Location:

(Continue on a separate sheet if necessary)

I wish to appeal against the decision not to allow my application for flexible working. I am appealing on the following grounds:

(please continue on separate sheet if necessary)

Applicant’s signature:                                                                 Date:
Provision of Flexible Working Opportunities
As of June 30th 2014, all employees with a minimum of 26 weeks service with NHS Lanarkshire will have the right to request flexible working arrangements, regardless of their current shift pattern.
As each case will be considered by line managers on an individual basis, it is important that employees are aware of the wide range of flexible working options that are available, in order to decide which would be most appropriate to meet the needs of individuals.

Flexible Working Options
The range of flexible working options that are available to NHS Lanarkshire staff include but are not limited to:

Part-Time

- Favourable option for young adults/students for work experience and extra money.
- Often a favorable option for employees returning to work from maternity and/or shared parental leave.

Job-Sharing

- Please refer to NHS Lanarkshire’s Job Share Policy

Compressed Working Hours

- The relocation of working hours split into longer blocks.
- Enables employees to work less days, reduce travel time/costs.
- This can provide more days off and more free time for employees.
- Can reduce overtime if employees are working longer days, and also help with recruitment.
- It could be difficult to provide staff cover if a number of employees are working compressed hours.

Shift work

- A pattern of work in which one employee works a certain amount of hours, and is then replaced by someone else who does the same job for a number of hours. This operates within a 24 hour time period.
- This usually operates on a team basis, so that the groups of employees all rotate around certain set shift patterns.
- Provides staff cover, for 24 hours each day, 7 days each week.
FLEXIBLE WORKING POLICY

- Increases wages and labour costs.

Career Break

- When individuals wish to take time out of work for any period of time for personal reasons. Possible reasons include travelling, taking a gap year or perhaps a secondment, moving abroad, or undertaking a particular training course.

- The main advantage of this from an employee perspective is job security, in the sense that if their career break has been authorised by their line manager then this is based on the agreement that after this period of time, the individual will return to a similar post.

It is important to note that each request will be considered on an individual basis, taking account of all circumstances surrounding the individual's situation. If a particular option is not viable from the business perspective to suit the employee's needs, then alternative options may be more suitable to meet both the needs of the individual and the service.
1. Can I work part-time/a different pattern of work after my maternity leave? Can my employer refuse to let me do this?

Employees do not automatically have the right to work part-time or change your work pattern after maternity leave but you do have the right to ask/request them. Employers are able to refuse these requests, but must have good business reasons for doing so.

2. How should I go about changing my work pattern after my maternity leave?

Since the Flexible Working legislation has been put in place, you should use the formal process by submitting your request to your line manager in writing. As employers can take up to 3 months to deal with a flexible working request, it is advised that you make this request prior to returning to work. It is also important to note that maternity leave is included in the criteria (26 weeks service with your employer) under this legislation.

3. What should I do if I have to change my work pattern or hours because of my caring responsibilities?

Speak to your manager in the first instance, as you may be able to come to an agreement which allows flexible working.

4. Would staff value more flexibility in their working lives?

Research has shown that more and more people are seeking flexibility from employers in order to create a better balance between their work and home lives, and distribute their time more effectively to meet external commitments also.

5. Will there be any effect on the delivery/continuity of patient care and how can a gain in quality of care be ensured?

Flexible working arrangements can cause staffing issues. However, if a request for flexible working will have a detrimental impact on other staff in that department in terms of lack of cover, or any other reason that could impact the continuity of patient care within that area, this request cannot be accommodated. It would then be possible to consider other forms which would not be as problematic to accommodate for other colleagues or for the service as a whole.

6. Will it help to retain existing staff and recruit new staff?

Job security is the main existing pull factor which attracts people to apply for NHS Lanarkshire jobs, and this encourages retention within the organisation. Introducing the right to request flexible working may increase retention even more if people have increased job satisfaction due to more flexibility. The combination of job security and flexibility will prove to be effective in continuing to attract people to the organisation.
FLEXIBLE WORKING POLICY

7. Will it reduce absences and the need for bank staff

Although introducing flexible working to NHS Lanarkshire will come with a range of complexities, in particular for managers who have staff in one department working different shift patterns, if implemented correctly and managed effectively, this should reduce absence levels. The main aim of introducing flexible working is to improve the work-life balance of employees while maintaining the needs of the service.

8. Will it be fair to all?

Flexible working legislation has been introduced to ensure that this right to request such is extended to all full and part-time employees, as prior to this it was only carers and those with caring responsibilities that were given this right. Therefore, it is based on the fundamentals of fairness, equality and continuity.

9. Could it impact on equal opportunities policy?

This policy may be used in conjunction with the equal opportunities policy. NHS Lanarkshire’s equal opportunities policy can be used as a set of principles for managers to use when adhering to their Flexible Working policy when dealing with flexible working requests and managing staff at different stages of the process.

10. Will it affect overtime or unsocial hours earnings?

This will vary depending on the job and department. Enhanced hourly rates will only be granted if an individual requests to work additional hours that would fall into the specific time slots that require unsociable hours pay. Currently, the hours considered to be unsocial are after 8pm and 6am Mon-Fri, and Saturday and Sunday.

In terms of overtime, employees have the opportunity to take on additional hours to their contracted number of hours as and when it is available from their line manager. This will be paid at basic rate upto 37.5 hours and at the appropriate rate thereafter.

If an employee works later one day in order to work less hours the following or any other day, then overtime hourly rates would not apply as although they are technically working extra hours one day, these are still hours which are included in their contract.

11. How will handovers be managed when there aren’t clear shift changes?

Communication is crucial. Although it will be the responsibility of line managers to ensure their staffing is sufficient at all times, a degree of responsibility belongs to the employee in this stage as they must check what shifts they are on, and if someone else is coming in, they know who and how to contact this person. It is reasonable to assume that employees should be arriving at work 5 minutes early to ensure they are ready to start when they are supposed to start. This would allow efficient change over, with short communication between the change of shifts, which means both employees and teams are up to date.