

Report to: Trust Board - June 2013

Enclosure 11

Title	Policy Update
Sponsoring Executive Director	Victoria Maher - Workforce Director
Author(s)	Bridget Chambers HR Manager
Purpose	To update the Committee on new and revised policies and request ratification of the same
Previously considered by	Policy subgroup, TNCC, HEC

Executive Summary

The Policy Approval Group has been established to review policies prior to ratification. The following policy has recently been updated and approved:

- HR28 Flexible Working Policy

This document can be at :

CorporateProjects on 'Rshsan02'(X):\CorporateMeetings\Hospital Exec Committee\2012\New policies

The document will be accessible through the document library on the Intranet.

Related SATH Objectives	SATH Sub-Objectives
QS: Quality and Safety LG: Learning and Growth	Meet regulatory Requirements and Healthcare Standards
Equality and Diversity Issues	All policies have been assessed for equality impact

Action required by the Trust Board

To ratify the following policy and disseminate through the Centres/Directorates

- **HR28 Flexible Working Policy**

1 Introduction

The Policy Approval Group (PAG) has been established to review policies prior to ratification. The aim is to ensure that all the appropriate steps have been taken to consult with the appropriate stakeholders; and that the policy meets the requirements of the overarching document on the development of policies and guidelines. The following document was discussed at PAG, HEC the Board is asked to note the legislative changes to the document.

2 Document

2.1.1 HR28 – Flexible Working

This updated policy outlines the arrangements in place to support staff in requesting flexible working arrangements. It contains a flowchart which outlines the process. It is important to note that there is a legal requirement to consider all flexible working requests and consequently, there are tight timelines which must be adhered to when reaching a decision on a request.

Managers **must**

- Respond to a flexible working request within 7 working days to acknowledge receipt and to
- Arrange a meeting with the employee within 28 days of receipt of request
- Send the outcome letter within 14 days of flexible working request meeting with details of the right to appeal decision which must be made within 14 days of outcome letter being received.
- If a decision is appealed, the appeal hearing must be arranged within 14 days of receipt of appeal letter and the outcome of the appeal sent to employee within 7 days of the appeal hearing
- The employee can make no further request for flexible working within a 12 month period
- Send a copy of the application form to the HR advisory team to be logged, where an application is refused.

Policy for Flexible Working

Human Resources Policy No. HR28

Additionally refer to:

- HR01 Equality and Diversity
- HR16 Grievances & Disputes
- HR20 Flexible Retirement
- HR27 Parental Leave
- HR37 Employment Breaks
- HR60 Job Evaluation

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Lead Director	Workforce Director
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C Version Control Sheet

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Version history

Version	Date	Author	Status	Comment
1	Jan 06	Kate Tavernor	Final	Agreed by Trust board
2	Jan 10	HR Dept	Final	Agreed by Trust board
3	Feb 13	Kate Youlden	Draft	Converted to new Policy Format Minor amendments for application purposes
3.1	April 13	Kate Youlden	Draft	Updates from TNCC Policy Meeting March 2013
3.2	May 13	Kate Youlden	Final	Updates from TNCC Policy Meeting May 2013 Agreed at TNCC Meeting May 2013 – no changes

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Policy Statement

This policy outlines the arrangements in place to support staff in requesting flexible working arrangements. The purpose of this document is to set out the Trust's policy, responsibilities and procedures in relation to these requests.

1. Introduction

- 1.1 The Trust is committed to providing members of staff with access to leave arrangements, which support them in balancing work responsibilities with personal commitments. This policy is one of a series of policies that make up the Trust's approach to help staff balance work and home life.
- 1.2 The Trust recognises the importance of domestic or out-of-work commitments and acknowledges that, at certain times in an employee's working life, circumstances may arise where it is appropriate to adopt flexible working arrangements. This policy sets out the arrangements within the Trust to enable all employees to request flexible working arrangements to balance their working life with non-work related commitments. It does **not** provide an automatic right for employees to work flexibly but will ensure that serious consideration is given to any request.
- 1.3 A flowchart detailing an overview of the process can be found in appendix A. Further information is available from the Human Resources Department.

2. Scope

- 2.1 This policy applies to all staff who are directly employed by the Trust, whether full time or part-time, permanent or temporary including those working via the Temporary Staffing Department.
- 2.2 While it is the Trust policy to consider Flexible Working requests for all eligible employees, there may be situations where precedence is given to those who have a statutory right to request flexible working, in order to ensure that the organisation complies with its legal obligations.
- 2.3 The Trust is required to consider flexible working options as part of their duty to make reasonable adjustments for disabled staff, staff with dependants, job applicants under the Equality Act and staff who are returning from maternity leave.
- 2.4 The policy does not apply to individuals employed by agencies or other contractors.
- 2.5 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of the Trust's Equality and Diversity Policy (HR01). Special attention should be paid to ensuring the policy is understood when using it for staff new to the NHS or Trust, by staff whose literacy or use of English is weak or for persons with little experience of working life.
- 2.6 Managers must respect the confidentiality of the employee at all times and not disclose any personal information to a third party, with the exception of where advice is being sought from their line manager, the HR Department or the Occupational Health Department.

3. Flexible Working Arrangements

3.1 The Trust has developed a range of working arrangements which may enable staff to work more flexibly, whilst maintaining service provision. These are explained in more detail in Appendix B. A list is given below, however, it is not exhaustive and is provided as a guide only:

<ul style="list-style-type: none">• Variable working patterns• Part-time working• Job sharing• Flexi-time• Self-rostering	<ul style="list-style-type: none">• Home working• Annualised hours• Term-time working• Employment breaks• Flexible Retirement
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3.2 Wherever possible, requests for flexible working patterns will be accommodated. However in some circumstances a manager may be unable to accept the flexible working pattern or accommodate a suitable alternative. In such circumstances, the manager must, write to the individual within 14 days of the formal meeting with the employee, stating why the flexible working pattern cannot be accommodated; and setting out the appeal procedure, as detailed in section 9.

4. Eligibility

4.1 Flexible working arrangements may be requested by all employees at any time during their employment.

4.2 The individual will not be able to re-submit an application for the same or fundamentally similar flexible working arrangements for 12 months from the date of the original request unless there is a change in the circumstances of the individual or in their department.

5. Responsibilities of Employees

5.1 A written application should be submitted using Appendix C and wherever possible, a minimum of three months notice should be given before the proposed date of the change. Employees should provide as much detail as possible about the flexible working pattern they wish to adopt.

5.2 In making a request, the employee must give due consideration to the impact any such arrangements may have on their work, their colleagues and the service and be prepared to offer potential solutions to any problems that may be encountered.

5.3 Employees must discuss their request with their manager with the aim of reaching a mutually acceptable arrangement. Employees may be asked to offer alternatives or to compromise on their request. Whilst every effort will be made by managers to accommodate requests, there may be occasions when this is not possible.

5.4 Employees have the right to withdraw an application for flexible working at any time provided permanent arrangements have not been put into place to accommodate their request (e.g. additional hours have been offered and accepted by another employee).

- 5.5 Employees may appeal against any decision made as a result of submitting a request for flexible working. This appeal must be made in writing within 14 days of receiving confirmation of their managers' decision, stating the grounds for the appeal. Further information on the Appeal Procedure is detailed in Section 9.
- 5.6 Employees must ensure that they have fully understood the procedure for requesting flexible working arrangements before submitting their application form. Further advice is available from the line manager, the Human Resources Department or the Trade Union Representative.

6. Responsibilities of Managers

- 6.1 Managers must consider requests for flexible working arrangements, taking into account:
- the legal requirement to consider the request, where relevant
 - the nature and urgency of the request
 - the cost of the proposed arrangement
 - the effect of the proposed arrangement on other staff
 - the impact of the request on the current needs of the service
 - the impact of the request on the responsibilities of the post including supervision requirements, department structure, staff resources, workload of role
 - implications for lone working (for individual or other colleagues)
 - the impact of any potential solutions proposed by the member of staff
 - the length of time for which flexibility is required (temporary or permanent)
- 6.2 Managers must acknowledge receipt of a request in writing within seven calendar days, confirming the date the request was received by the manager. They must then meet the employee within 28 calendar days to discuss the request. This is an opportunity for both the manager and the employee to explore the proposed working pattern in depth and explore how it might be accommodated. If it is not possible to meet the request in full, it may be possible to agree an alternative approach that is acceptable to both parties.
- 6.3 The individual should be advised prior to any meetings of their right to be accompanied at the meeting by their Trade Union/Professional organisation representative or by a colleague employed by the Trust. Where the person is to be represented it is their responsibility to arrange this for the required time.
- 6.4 Managers should respond, in writing, within 14 calendar days of this meeting (by letter and using Section B of Appendix C) either agreeing a new work pattern (this may include an alternative pattern that has been discussed) and a start date, or providing a clear business reason as to why the application cannot be accepted (see appendix c, section B). This letter should also set out the right to appeal and refer them to the appeal procedure as outlined in Section 9 of this policy.
- 6.5 Managers may reject an application where the desired working practices cannot be accommodated within the needs of the service. When a request is received, the manager must consider the needs of the service at that particular point in time. It is not acceptable to turn down a request on the basis that others might then request similar working arrangements. Equally, there may be sound and defensible reasons for refusing a request even though there are already flexible arrangements in place within the department for other staff members. Where a request is refused the manager must copy the completed application form to the HR Department.

- 6.6 If managers wish to extend the timescales for dealing with a request, it must be reasonable under the circumstances (e.g. to allow further research or investigation, annual leave commitments, sickness absence) and must be agreed with the employee concerned and confirmed in writing. The extension period should not normally exceed 14 calendar days.
- 6.7 When considering advertising vacancies, managers should give consideration as to whether it is possible to accommodate flexible working arrangements.
- 6.8 Managers must ensure that no employee suffers any detriment or discrimination as a result of making a request for, or undertaking flexible working arrangements, and must ensure fairness and consistency in approach.
- 6.9 Where a change is agreed an ESR Change of Circumstances form must be completed by the manager and submitted to the ESR Team to notify of any changes which will impact on the individual's pay.

7. Reviewing Flexible Working Arrangements

- 7.1 The manager and the employee will jointly agree based on the individual circumstances and service needs a timescale for review. Where temporary changes have been agreed, timescales and review periods must be stated at the time flexible working arrangements are implemented and confirmed in writing by the Manager within 14 calendar days of the meeting. Arrangements should be reviewed regularly to ensure that they are working satisfactorily and that any issues are raised and resolved as soon as possible.
- 7.2 Any subsequent changes made should be subject to full consultation between the manager and employee and implemented from an agreed date. Where the review determines that it is not possible to continue the flexible working arrangements the employee will commence the standard working hours for the department from an agreed date.
- 7.3 If the department undergoes service changes that impact upon working arrangements existing flexible arrangements may be reviewed at that time.

8. Conditions of Service

- 8.1 Where a change to working arrangements is agreed the manager should confirm in writing the changes to the individual's terms and conditions, where necessary re-issuing the Statement of Main Terms and Conditions of Employment.
- 8.2 An employee reducing their hours of work or changing their work pattern should maintain their existing conditions of service. However, in exceptional circumstances and where it has not been able to accommodate an individual's request within the same role, it may be appropriate to review the role to be undertaken in accordance with Agenda for Change Job Evaluation Criteria.
- 8.3 If the request for a flexible working pattern results in a reduction in hours, pay and annual leave entitlement will be reduced on a pro-rata basis.

9. Appeals Procedure

- 9.1 Employees have the right to appeal against any decision to refuse their request for flexible working.

- 9.2 To appeal, the employee must write to their Centre Manager / equivalent Head of a corporate function (or where the application has been refused by the Centre Manager / equivalent Head of a corporate function, to the appropriate Executive Director) within 14 days of receipt of the decision letter, clearly setting out the reasons why they consider the decision to be unfair.
- 9.3 An Executive Director/ Centre Manager / equivalent Head of a corporate function may delegate responsibility for hearing an appeal to an alternative senior Manager of equivalent of higher level of authority..
- 9.4 The manager chairing the appeal will arrange a hearing to discuss the employee's reasons for appeal. This meeting will normally be held within 14 days of receipt of the appeal and the employee will have the right to be accompanied by a Trade Union/Professional organisation representative or by a colleague employed by the Trust.. The outcome of this hearing will be confirmed in writing normally within 7 calendar days of the meeting. Outcomes of the hearing could include upholding the decision, agreeing the requested arrangements or implementing alternative arrangements.
- 9.5 Following this, the individual will not be able to re-submit an application for the same or fundamentally similar flexible working arrangements for 12 months from the date of the original request unless there is a change in the circumstances of the individual or in their department.
- 9.6 If, following an appeal, the individual still feels that their request has been unreasonably refused, s/he may raise a Stage 3 grievance using the Trust's Grievance Procedure (HR16).

10. Training

- 10.1 Management training required to fulfil this policy will be provided in accordance with the Trust's Training Needs Analysis. Management and monitoring of training will be in accordance with the Trust's Development and Training Support Policy (HR59).
- 10.2 This information can be accessed via the Learning Zone pages on the Trust intranet.

11. Review Process

- 11.1 The Trust will review this policy when there are changes to relevant legislation or good practice, or within the normal policy review cycle.

12. Equality Impact Assessment (EQIA)

- 12.1 This policy applies to all employees, however where a legal obligation exists precedence will be given to considering this request in order to ensure the organisation complies with its legal obligations.

13. Process for Monitoring Compliance

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Declined requests to be monitored	At policy review access and uptake of policy to be reviewed	HR Team	On policy review	Workforce Committee
Organisations expectations in relation to staff training	Management and monitoring of training will be in accordance with the Trust's Development & Training Support (HR59)			

14 References

Legislation

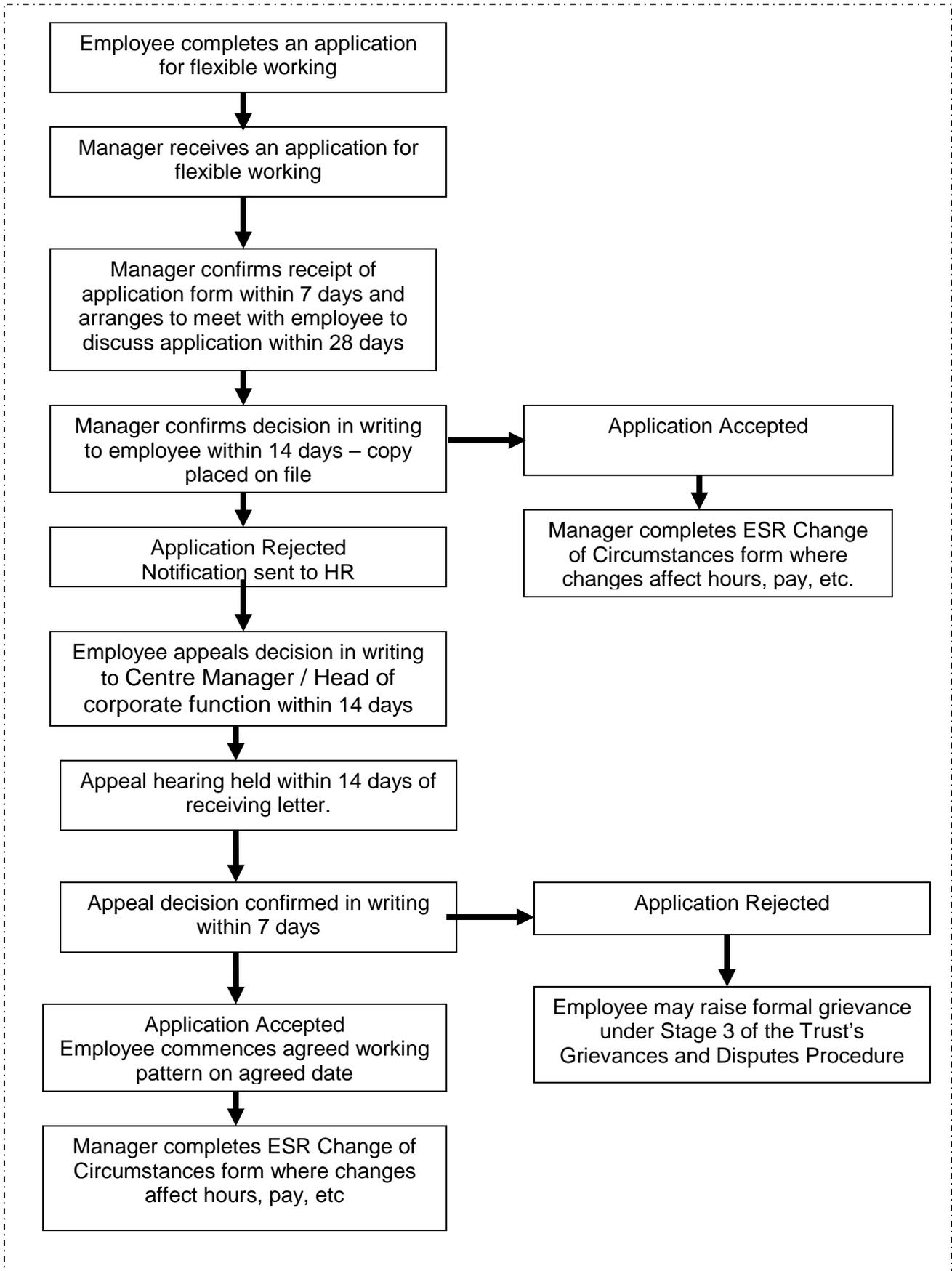
- Equality Act 2010
- Employment Rights Act 1996
- Employment Act 2002, especially section 47
- Flexible Working (Procedural Requirements) Regulations 2002

Other references

The NHS Employers Website provides further information and resources on employee's entitlements: [/www.nhsemployers.org](http://www.nhsemployers.org)

- Agenda for Change Terms and conditions Handbook. Section 34 Flexible Working Arrangements (AfC). (2011)
http://www.nhsemployers.org/SiteCollectionDocuments/AfC_tc_of_service_handbook_fb.pdf

Overview of Flexible Working Procedure



APPENDIX B

More Details About Flexible Working Practices

Part-time

Employees working less than the designated full-time hours within any particular grade or position

Job-share

A situation where two or more people share one full-time job, dividing the pay, holidays and other benefits in proportion to the number of hours they work.

Flexi-time

Employees contracted to work for a weekly or monthly number of hours who may vary their daily start and finish times as long as they work the total hours agreed for the accounting period, usually involving core-time hours.

Team-based / Employee based self-rostering

Employees who manage their own working hours within a team or individually, usually within set boundaries and in compliance with departmental/team needs.

Home Working

Employees who work from home on a regular basis for reasons of self development or work related purposes.

Annual Hours

Employees who are contracted to work an annual amount of hours rather than monthly or weekly. Employees are paid exactly the same each month but are expected to respond to peaks and troughs in work load by increasing or decreasing the hours worked when appropriate. Such a scheme is also used for allowing employees greater personal flexibility, although the needs of the organisation must always be considered.

Term-time

Employees who work for the 39 weeks of the school year. Annual holiday is pro-rated and is deemed to be taken during the 13-week non working period; salary is adjusted accordingly and paid equally over 12 months.

Shift Working

Employees working shift patterns either on a regular or rotation basis.

Long Shifts/Condensed Hours

Employees working more hours per day in order to condense working hours into fewer working days, typically working 5 days in 4 or 10 days in 9.

Employment Breaks

An employment break is a period of unpaid time out from the workplace. See Employment Break Policy HR37

Flexible Retirement

An alternative to simply stopping work, to assist in preparing for retirement. See Trust Retirement Policies

Variable Working Patterns

Irregular days off fixed in advance to enable, for example, separate parents to have access to children.

APPENDIX C
Application for Flexible Working – HR28

Please ensure that you have read and understood the Flexible Working Policy before completing this form. Once completed please pass this form to your manager who will arrange to meet with you to discuss your request.

Section A - To be completed by the employee:			
Part 1 - Personal Details			
First Name:		Surname:	
Employee No:		Department:	
Start Date with NHS:		Start Date with Trust:	
Job Title:		Band:	
Part 2 - Current Working Pattern			
Days worked:		Times worked:	
No of Hours Worked:		No of Shifts per week / month:	
Part 3 - Requested Working Pattern			
Days worked:		Times worked:	
No of Hours Worked:		Duration of Change Requested (See section 7.1)	
Start date of change:		End date of change:	

Part 4- Reason for the Request

Part 5 - Declaration

I declare that I have:

1. made a previous application but my circumstances have changed as follows (please state):

2. read and understood the Flexible Working Policy and wish to apply for a flexible worked pattern as requested above.

Signed:		Date:	
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Section B Continued (To be completed jointly by the manager and the employee)

Part 1 – Impact of new working pattern: (please state how this change will affect your department / colleagues) Employee may wish to discuss this with their manager

Part 2 –Accommodating the new working pattern: (please state how the department / colleagues can support your requested change) Employee may wish to discuss this with their manager

Section C - To be completed by the Manager:	
I confirm I have met with the individual to discuss their application and having considered their above request under the Flexible Working Policy (HR28):	
I approve the individual's above request to work flexible, (please tick)	
I have rejected the individual's above request to work flexible for the following reason/s (please tick):	
• Unreasonable burden of additional costs	
• Detrimental affect on the ability of the service to meet service demands	
• Detrimental impact on the provision of continuous standards of care to patients	
• Inability to reorganise work among existing staff	
• Inability to recruit additional staff	
• Detrimental impact on quality or performance	
• Insufficiency of work during the periods the employee proposes to work	
• Planned structural changes	
• Other (please state below)	
If the request is refused I have advised the employee in writing of the reasons for refusal and of their right of appeal in line with the policy (insert date):	

Further comments/reasons for refusal:			
Name (Print):		Job Title:	
Signed:		Date:	
Date copy of this form and Change of Circumstances form sent to ESR			

Line Manager Action:

- Confirm decision in writing via letter to employee
- Complete change of circumstances form if required
- Re-issue Statement of Main Terms and Conditions of Employment if required
- Retain a copy of the signed documentation and change of circumstance form on the individual's file and
- Send a copy of the Application for Flexible Working to ESR with a Change of Circumstances form.

IF AN APPLICATION IS DECLINED PLEASE SEND A COPY OF THIS FORM TO YOUR HR ADVISORY CONTACT