

Flexible Working

Human Resources Policy No: W23

Additionally refer to:

Equality and Diversity
 Grievances & Disputes
 Retirement and Flexible Retirement
 Parental Leave
 Employment Breaks
 Job Evaluation

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1. Policy on a Page

- 1.1 This policy outlines the arrangements in place to support staff in requesting flexible working arrangements.
- 1.2 The Trust is committed to developing *positive flexible working arrangements which allow people to balance work responsibilities with other aspects of their lives* (National Terms and Conditions 34.1).
- 1.3 Not only does flexible working open up opportunities for parents and people with carer responsibilities but it may be relevant to many people in the workforce at various stages in their working life. Employees may prefer different working patterns for reasons such as further education, voluntary work or other interests outside the workplace.
- 1.4 The policy does not provide an automatic right for employees to work flexibly but will ensure that reasonable consideration is given to any request.
- 1.5 This policy applies to all staff who are directly employed by the Trust, whether full time or part time, permanent or temporary.
- 1.6 The Trust has developed a range of working arrangements which may enable staff to work more flexibly, whilst maintaining service provision. Appendix B gives employees an idea of the range of options available but it is not exhaustive:
- Annual Hours
 - Compressed/Condensed Hours (Long Shifts)
 - Employment Breaks (Career Breaks or Sabbaticals)
 - Flexi-time
 - Flexible Retirement
 - Home (Remote) Working
 - Job-share
 - Part-time Working
 - Phased return to work
 - Shift Working
 - Staggered hours
 - Team-based / Employee based self-rostering
 - Term-time Working
 - Time off in lieu of banked hours
 - V-time working
 - Variable Working Patterns
- 1.7 See the policy process as set out in appendix A.
- 1.8 To apply for flexible working staff should use the form in appendix C

1.9

2. Introduction

- 2.1 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.
- 2.2 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 reasonable consideration is given to any request.
- 2.3 A flowchart detailing an overview of the process can be found in appendix A. Further information is available from the Human Resources Department.

3. Scope

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 The policy does not apply to individuals employed by agencies or other contractors.
- 3.5 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 (W30). 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.
- 3.6 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.

4. Flexible Working Arrangements

- 4.1 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:
- Annual/annualised Hours
 - Compressed/Condensed Hours (Long Shifts)

- Employment Breaks (Career Breaks or Sabbaticals)
- Flexi-time
- Flexible Retirement
- Home (Remote) Working
- Job-share
- Part-time Working
- Phased return to work
- Shift Working
- Staggered hours
- Team-based / Employee based self-rostering
- Term-time Working
- Time off in lieu of banked hours
- V-time working
- Variable Working Patterns

4.2 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 arrange to meet with the individual to discuss the request.

5. Eligibility

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

5.2 Where a request is refused, 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. Where a request is granted for a short period (i.e. less than 12 months) the individual may make a further request with the 12 month time period.

6. Responsibilities of Employees

6.1 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. There may be occasions where the request is urgent and 3 months' notice is not possible.

6.2 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.

6.3 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.

6.4 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).

6.5 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 or Professional Organisation Representative.

7. Responsibilities of Managers

7.1 Managers at all levels enable their staff, including doctors, to work in ways that meet their personal needs, and the needs of the service, at different times of their careers and structures are in place to support flexible working practices.

7.2 Managers are required to consider flexible working options for all staff in the workplace, for example:

- disabled staff and staff with health conditions
- staff returning to work following maternity/paternity leave, parental leave, adoption leave or shared parental leave
- staff in need of temporary changes to their employment arrangements, for example, following a domestic crisis, bereavement or sickness absence.

7.3 Managers must consider requests for flexible working arrangements, taking into account:

- the legal requirement to reasonably 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)

7.4 On receipt of a written request, managers must consider it. Managers must arrange to meet the employee as soon as possible to discuss the request (where appropriate this discussion can take place by telephone). 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. If the manager is able to approve the request without further discussion a meeting may not be required.

7.5 Individual can be accompanied at the meeting by their Trade Union/Professional organisation representative or by a colleague employed by the Trust if they wish. Where the person is to be represented it is the individual's responsibility to arrange this for the required time.

7.6 Managers must confirm their decision in writing as soon as possible (using Section C 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 C). This form sets out the right to appeal in accordance with Section 9 of this policy.

7.7 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. All jobs should be considered for flexible working; if this is not possible the manager must provide written, objectively justifiable reasons for this and give a clear, demonstrable operational reason why this is not practicable. Where a request is refused the manager must copy the completed application form to the HR Department.

- 7.8 Requests must be considered within a relevant timeframe (i.e. relevant to the request made and recognising that some requests need urgent attention). All requests will be considered within 3 months unless you agree to extend this period with the employee. If a meeting is arranged and an employee fails to attend this and a rearranged meeting, without good reason, the request will be considered as withdrawn. Some requests may be progressed without a meeting where this is appropriate however the Flexible Working Application form must be submitted and completed by the manager.
- 7.9 When considering advertising vacancies, managers should give consideration as to whether it is possible to accommodate flexible working arrangements.
- 7.10 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.
- 7.11 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.

8. Reviewing Flexible Working Arrangements

- 8.1 The manager and the employee will jointly agree working arrangements based on the individual circumstances and service needs; a timescale for review will be agreed. 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. Arrangements should be reviewed regularly to ensure that they are working satisfactorily and that any issues are raised and resolved as soon as possible.
- 8.2 Where the impact of the arrangements is unclear, a trial period can be utilised. Arrangements for this period should be set out in writing.
- 8.3 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.
- 8.4 Where flexible working arrangements are agreed at recruitment they should be automatically reviewed at 3 and 6 months to ensure they remain suitable. After that time regular reviews will be carried out as per section 7.1.
- 8.5 If the department undergoes service changes that impact upon working arrangements existing flexible arrangements may be reviewed at that time.

9. Conditions of Service

- 9.1 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.
- 9.2 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.
- 9.3 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.

10. Appeals Procedure

- 10.1 The Trust procedure includes the right to request a further meeting where the decision has been made to refuse their request for flexible working.
- 10.2 To request this meeting, the employee must write to the manager of the manager making the initial decision within 14 days of receipt of the decision (confirmed on section C of Appendix C), clearly setting out the reasons why they consider the decision to be unfair.
- 10.3 Managers may delegate responsibility for this meeting to an alternative senior Manager of equivalent or higher level of authority.
- 10.4 A meeting will be arranged as soon as possible to discuss why the employee considers the decision to be unfair. The employee may be accompanied by a Trade Union/Professional organisation representative or by a colleague employed by the Trust. The outcome of this meeting will be confirmed in writing normally within 7 calendar days of the meeting. Outcomes could include upholding the decision, agreeing the requested arrangements or implementing alternative arrangements.
- 10.5 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.

11. Training

- 11.1 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).
- 11.2 This information can be accessed via the Learning Zone pages on the Trust intranet.

12. Review Process

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

13. Equality Impact Assessment (EQIA)

13.1 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.

14. 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	TNCC
Organisations expectations in relation to staff training	Management and monitoring of training will be in accordance with the Trust's Development & Training Support (HR59) and Risk Management Training Policy			

15. References

Legislation

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

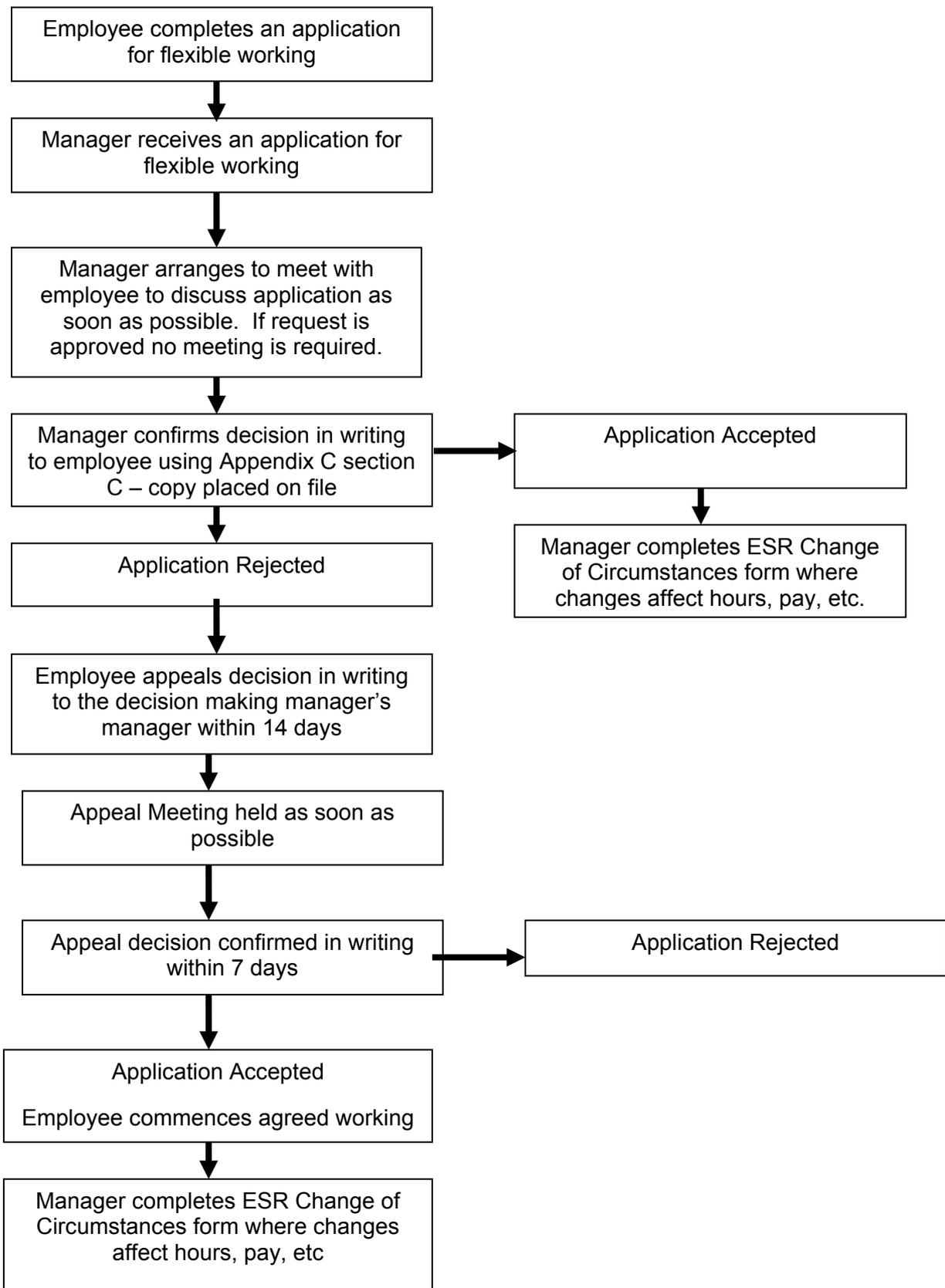
Other references

The NHS Employers Website provides further information and resources on employee's entitlements - www.nhsemployers.org

National Terms and conditions Handbook. Section 34 Flexible Working Arrangements (AfC)

NHS Employers Flexible Working A-Z Guide

Appendix A Overview of Flexible Working Procedure



Appendix B Flexible Working Practices (incorporating the NHS Employers A-Z of Flexible Working)

Annual Hours

Employees who are contracted to work a number of hours over the whole year 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. A large number of the hours may be allocated to set shifts leaving the remaining hours to be worked at short notice or as agreed with the employee as demand dictates. Such a scheme is also used for allowing employees greater personal flexibility, although the needs of the organisation must always be considered.

Example:-

An employee is contracted (paid) 25 hours per week but works their hours over 40 weeks. They have 5 years' service for the purposes of annual leave and take all their annual leave in their 12 non-working weeks.

$25\text{hours} \times 52.14 \text{ (weeks per year)} = 1303.5 \text{ hours per year (before annual leave and bank holidays)}$

$\text{Annual leave} = 29 \times 7.5 = 217.5 / 37.5 \times 25 = 145 \text{ hours leave per year}$

$\text{Public Holidays} = 8 \times 7.5 = 60 / 37.5 \times 25 = 40 \text{ hours per year (figure to be recalculated yearly)}$

$\text{Total hours to be worked} = 1303.5 - 145 - 40 = 1118.5$

$\text{Weekly hours working over 40 weeks} = 1118.5 / 40 = 27.96 \text{ hours per week}$

39 weeks at 28 hours per week (1092 hours)

1 week at 26.5 hours

Compressed/Condensed Hours (Long Shifts)

Allows employees to work their total number of agreed hours over fewer working days. For example a five day working week compressed into four days or a nine day fortnight (ten working days compressed into nine).

Employment Breaks (Career Breaks or Sabbaticals)

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

Flexi-time

Allows employees to choose, within agreed limits, when to begin work and end work, and may be planned to enable individuals to attend to domestic or other responsibilities. Employees may be required to work during some essential periods (known as core times) and must work an agreed number of hours within an 'accounting period' which is typically four weeks. Outside core times are flexible bands when employees may choose whether to be at work or not. This enables employees to vary their start, finish and lunch times. Usually, within agreed limits, employees can carry over any excess or deficit in the number of hours they are required to work to the next accounting period.

Flexible Retirement

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

Home (Remote) Working

Employees who work from home on a regular basis (to meet their contractual obligations) for reasons of self development or work related purposes; this can be on a temporary, occasional, programmed or (in exceptional circumstances) permanent basis.

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. There is no set model for managing time, which may involve working a set number of hours each day, each week or alternate weeks.

Part-time Working

Employees working less than the designated full-time hours within any particular grade or position. There is no set pattern to part-time working. It may involve a later start and earlier finish time than a full-time position, working mornings or afternoons only, fewer working days in the week or any other arrangement of working time whereby the employee is contracted to work less than normal basic full-time hours.

Phased return to work

Used after a period of extended leave such as maternity leave, employment break or after serious or prolonged illness. Normal hours of working are reduced initially on a temporary basis (usually for a period of up to 6 months) before returning to normal hours of work.

For more information regarding return to work following sickness absence see the relevant Trust policy. In other circumstances employees may use accrued annual leave to work part time or temporarily change their contracted hours for an agreed period subject to service need.

Shift Working

Employees working shift patterns either on a regular or rotation basis. This is the pattern of work in which one employee replaces another on the same job within a 24 hour period. Shift systems typically operate over morning, afternoon, long and/or night shift periods and may provide continuous cover 24 hours a day, seven days a week.

Additional variations of this are:

- Shift swapping - enables employees to negotiate their working times by re-arranging shifts among themselves with the proviso that the required shifts are covered.
- Self-rostering - allows employees to nominate the shifts they would like to work, leaving employers to compile shift patterns that match the preferences of individual staff to agreed staffing levels.
- Requesting Days off – enables employees to request a set number of days off during a roster period which subject to service need can be authorised by their roster organiser.

Staggered hours

Allows normal working hours to be varied to suit an individual's needs whilst working full contracted hours. Working may be staggered on a permanent or temporary basis throughout the week; or just on one or two days of the week. Can be a very effective way of covering longer opening hours i.e. allowing members of staff to have different start/lunch/and finishing times.

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. (See also Flexi-time and Shift Working)

Term-time Working

Enables an employee to remain on a permanent contract but also to take paid or unpaid leave during school holidays.

Variations include:-

- Employees 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.

Example:-

An employee is contracted (paid) 25 hours per month but works their hours over 39 weeks. They have 5 years' service for the purposes of annual leave and take all their annual leave in their 13 non-working weeks.

$25\text{hours} \times 52.14 \text{ (weeks per year)} = 1303.5 \text{ hours per year (before annual leave and bank holidays)}$

$\text{Annual leave} = 29 \times 7.5 = 217.5/37.5 \times 25 = 145 \text{ hours leave per year}$

$\text{Public Holidays} = 8 \times 7.5 = 60/37.5 \times 25 = 40 \text{ hours per year (figure to be recalculated yearly)}$

$\text{Total hours to be worked} = 1303.5 - 145 - 40 = 1118.5$

$\text{Weekly hours working over 39 weeks} = 1118.5/39 = 28.68 \text{ hours per week}$

38 weeks at 28.5 hours per week (1083 hours)

1 week at 35.5 hours

Or

38 weeks at 29 hours per week (1102 hours)

1 week at 16.5 hours

Time off in lieu of banked hours

This allows employees to take time off to compensate for extra hours worked. Time worked must be agreed in advance. For overtime payment rules see national terms and conditions.

V-time working (Temporary Reduction in Hours)

This is a voluntary arrangement whereby an employee reduces the number of hours worked for an agreed period with a guarantee that contractual hours (full or part time) will be available again at the end of this time. In exceptional circumstances this could include a period of unpaid leave.

Variable Working Patterns

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

All the above Flexible Working arrangements can be requested using the Flexible Working Request forms and requests will not be unreasonably refused.

Appendix C Application for Flexible Working – W23

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 (W23):	
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 employees are able to appeal this decision. If refused insert the name of the manager to whom an appeal should be addressed. Appeals must be submitted within 14 days of receipt of this returned form.	

Further comments/reasons for refusal to give a clear, demonstrable operational reason for the reasons ticked above and to demonstrate why the working arrangements are not practicable:			
Name (Print):		Job Title:	
Signed:		Date:	
Date 'Change of Circumstances form' submitted to ESR (if required)			

Line Manager Action:

- Confirm decision in writing to employee using Section C of this form
- 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
- Submit a Change of Circumstances form to ESR (if required).

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