



PROCEDURE FOR MANAGING FLEXIBLE WORKING REQUESTS

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PROCEDURE FOR MANAGING FLEXIBLE WORKING REQUESTS

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1. Introduction

NHS Highland, being an employer committed to the principles of work/life balance, recognises that, as one of a range of options, a flexible working arrangement may give staff some discretion as to their starting and finishing times each day. This policy details the procedure for requesting types of flexible working:

There are many forms of flexible working. It can describe a place of work, for example, home-working, or a type of contract. Other common variations include: part-time working, flexi-time, job sharing and shift working. The request can cover hours of work, times of work and place of work and may include requests for different patterns of work.

Employers will have a duty to consider all requests in a reasonable manner; however, managers will have the flexibility to refuse requests on business grounds.

2. Right to request flexible working

All employees who meet the eligibility criteria outlined in Section 2.2 below have the right to request flexible working.

2.1 Scope

Eligible employees are entitled to request:

- A change to the hours they work;
- A change to the times when they are required to work; or
- A change to the place they are required to work.

An acceptance of an employee's request for flexible working will result in a permanent change to that employee's terms and conditions of employment unless otherwise agreed (for example any temporary arrangement under review). Any permanent change should be documented as a formal contract variation in order to be effective. The employee has no right to revert back to the previous working pattern once a formal contract variation is in place. For medical staff in the consultant and Specialty Doctor/Associate Specialist grades, this is normally achieved through the contractual job planning process.

All individual applications for flexible working must be made on the Flexible Working Application Form attached at Annex 1. The completed form should then be submitted to the employee's line manager. This application should be acknowledged in writing by the line manager (see Annex 2).

There are two exceptions to this: the procedure for employees returning from maternity leave/shared parental leave who wish to job share is described in the job share policy, and the procedure for introducing annualised hours is described within the annualised hours policy.

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2.2 Eligibility

All employees meeting the following criteria are eligible to apply for flexible working:

- ~~Must have been employed by NHS Highland for 26 consecutive weeks at the point of applying for flexible working; and~~
- Must not have made another flexible working application within the previous 12 months

Or

Have completed a flexible working application to work flexibly during the last 12 months; however these personal circumstances have now changed from the original application.

Comment [BJ(H1)]: This bullet point was taken out as a result of DL (2021)29, which allows employees to make an application from day one in post with effect from 13 September 2021

3. Submitting a Flexible Working Application Form

3.1 Initial meeting

The line manager will hold a meeting with the employee to discuss the application, with the aim of doing this within 2 weeks, but within a maximum of 4 weeks of the date on which the application is made. In appropriate circumstances, this period can be extended by mutual agreement.

3.2 Communication after Initial Meeting

The manager will inform the employee of their decision in writing within 10 working days of the date of the initial meeting.

3.3 Request accepted

If the request is accepted, the line manager must confirm this in writing to the employee, specifying the new working pattern and the date from which it will take effect. The line manager must also notify the Payroll Department, by completing a change form. The line manager must also consider whether the employee's contract of employment requires to be amended to reflect the change to the working pattern and duration. If so, this should progress with the support of NHS Highland Personnel Department.

This change may constitute a permanent change to the employee's contract unless agreed for a specific period of time; the line manager must discuss with employee to agree a suitable review period.

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3.4 Request unsuccessful

Non-acceptance of an application for flexible working can only be for valid and objective service/operational reasons. The line manager must, therefore, confirm the reasons in writing to the employee (see Annex 3). The employee should also be provided with details of the formal appeal procedure.

There is also the provision that, before progressing to appeal, it may be preferable for the manager and the employee to seek advice on resolving the matter from an appropriate member of the Personnel Team and a Trade Union/or Professional Organisation representative. This approach will not preclude the employee's right to raise a formal appeal in the event that they consider that the matter has not been satisfactorily resolved.

4 Appeal Procedure

A member of staff can appeal against the decision to refuse their application by submitting a Notice of Appeal form (see Annex 4) to the Manager (as agreed locally) within 10 working days of receiving written confirmation that their application for flexible working has been refused. The notice of appeal must be dated and clearly set out the grounds of appeal. The member of staff should receive confirmation of receipt of the Notice of Appeal (see Annex 5).

4.1 Appeal Hearing

A hearing will be held to discuss the appeal with, the aim of doing this within 2 weeks, but within a maximum of 4 weeks of the date of the Notice of Appeal form being given to the Manager. The Appeal Panel will ideally consist of a manager who is at a more senior level than the manager who made the original decision and a member of the Personnel Team, neither of whom should have been involved in making the original decision.

4.2 Notice of the Decision

The employee will be informed, in writing, of the outcome of the appeal within 10 working days of the hearing.

Where the appeal is upheld, the notice of the decision will specify the new agreed working pattern and the date on which it will take effect. The line manager must also notify the Payroll Department. The line manager must also consider whether the employee's contract of employment requires to be amended to reflect the change to the working pattern. If so, this should be progressed with the support of the Personnel Team.

Where the appeal is unsuccessful, the notice of the outcome will provide a clear and detailed explanation of the reasons for the decision.

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5 Extension of Time Limits

The above timescales can be extended but only if both parties agree in writing to an extension.

6 Representation

Employees are entitled to be accompanied by a trade union or professional organisation representative (including full-time Trade Union Officers), or a colleague, at all stages of the procedure.

7 Service Reasons for Refusing a Request

An application can only be refused for one of the following service/operational reasons where it is determined that a change to the employee's work pattern would:

- Create an unacceptable burden of additional cost;
- 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 the organisation, their colleagues or the employee;
- Result in an inability on the part of the organisation to re-organise work among existing staff;
- Result in an inability on the part of the organisation to recruit additional staff; or
- Include periods where there would be insufficient work for the employee to undertake.

In addition, there may be occasions where planned organisational changes might make it impracticable for NHS Highland to agree to an employee's request for flexible working. An application may also be declined on this basis.

8 Withdrawal of Application

NHS Highland will treat an application as withdrawn if the employee has:

- Notified their manager in writing that their application is being withdrawn;
- Failed, without reasonable cause, to attend a meeting/Appeal Hearing convened under the procedure on more than one occasion; or
- Refused, without reasonable cause, to provide information which NHS Highland considers necessary to assess whether the employee's request to work flexibly should be granted.

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The employer will confirm the withdrawal of the application in writing to the employee, unless the employee has provided written notice of the withdrawal.

9. Monitoring, Review & Evaluation

This policy will be monitored, reviewed and evaluated every two years by the Highland Partnership Forum or equivalent, taking into consideration legislative changes and developments in good practice to ensure it meets the needs of all employees.

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Appendix 1



Flexible Working Application Form

1) Personal Details	
Name	
Payroll Number	
Job Title	
Department	
Location	
Type of Change	Temporary / Permanent (Please circle)
If Temporary – indicate dates requested	
Review Period	<i>(Please agree a review period with your manager)</i>

2) Describe your current working pattern below, i.e. days/nights/hours/ times worked:

3) Describe the working pattern you wish to work in future below, i.e. days/nights/hours/times:

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4) I would like this working pattern to start from: _____

5) Impact of the new working pattern.

Please give details of how you think the requested work pattern will affect the department and your colleagues:

6) Accommodating the new working pattern.

What suggestions/ideas do you have about how your new working pattern could be accommodated?

I hereby apply to work a flexible working pattern that is different from my current working pattern and I confirm that I meet the following eligibility criteria:

- I have been continuously employed by NHS Highland for at least 26 weeks at the date of application; and
- I have not made another application to work flexibly during the past 12 months.
- I have made other applications to work flexibly during the past 12 months, but personal circumstances have changed which I have detailed above.

Employee Signature: _____ Date: _____

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APPENDIX 2

Frequently Asked Questions

All individual applications for flexible working must be made on the Flexible Working Application Form (Appendix 1). Examples of Flexible Working include: reduction in hours; compressed working week; term-time working or other annualised hours arrangement.

Parents of children under 16 years old and of disabled children under 18 years old now have the right to submit an application requesting flexible working.

As a statutory duty NHS Highland will seriously consider the request.

To enable you to deal with requests from employees efficiently and effectively as a line manager/supervisor you should adhere to the following practice and principals.

A Temporary Change will apply for no more than 12 months. A review period can be agreed between line manager and employee for no more than 12 months. During the 12 month period, any temporary change will be reviewed at regular intervals and if agreed made permanent. If during any review meetings, it is agreed that the application is to revert to the previous working pattern, consideration will be given to NHS Highland's position to allow the employee to revert to their previous working pattern on a mutually agreed date

You will only be able to treat an application as withdrawn where the employee has failed to attend a meeting more than once and has failed to provide reasonable cause. Unless provided by the employee you will have to confirm the withdrawal of an application in writing. Within 10 days of the formal meeting you must write to the employee either to agree to a new work pattern and start date; or to provide clear business grounds as to why the application cannot be accepted, stating all reasons for the decision.

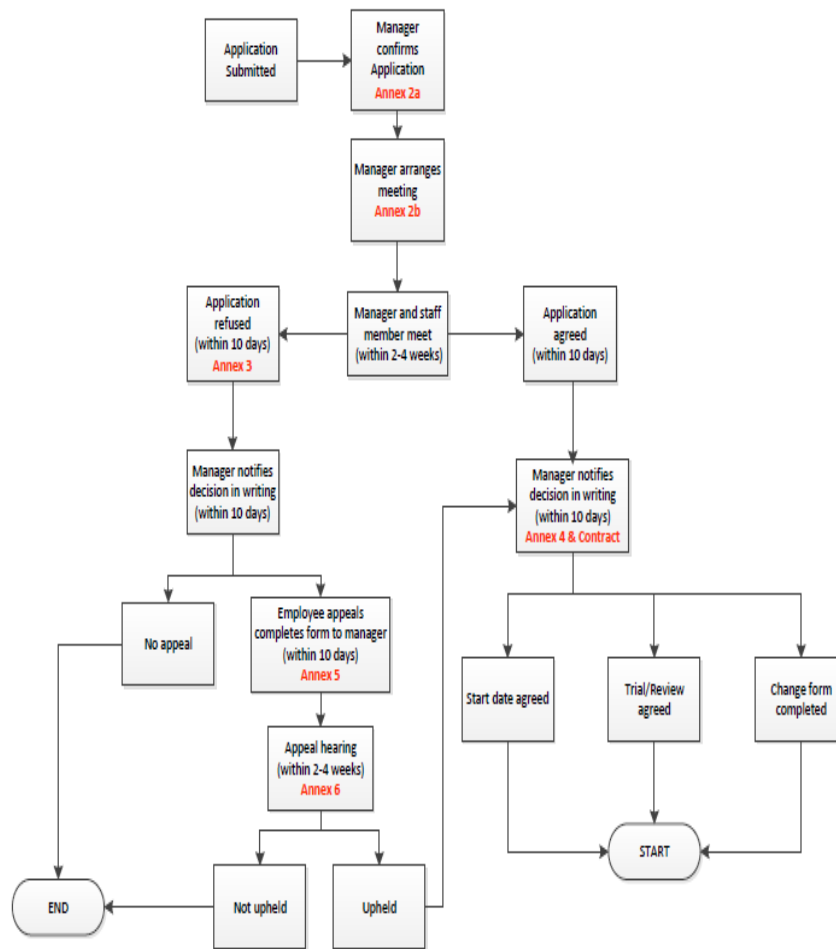
Under section 80 of the Employment Act 2002, the only reasons for refusing a flexible working request from eligible employees are:-

- Burden of additional costs
- Detrimental on ability to meet customer demand
- Inability to reorganise work among existing staff or recruit additional staff
- Detrimental impact on quality or performance
- In sufficient work during periods employee proposes; and
- Planned structural changes

You must ensure that you process the necessary changes and administrative arrangements in order that revised contracts and salary amendments etc can be processed.

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APPENDIX 3



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