

## NHS Education for Scotland

### Flexible Working Practices – Policy and Procedures

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# **FLEXIBLE WORKING PRACTICES POLICY AND PROCEDURES**

## **SECTION 1: POLICY AND PRINCIPLES**

### **1. Policy**

NHS Education for Scotland (NES) is committed to recruiting and retaining high quality staff who can ensure that the organisation performs to high standards. NES greatly values the loyalty and capability of staff, their ability to work hard and deliver demanding targets. NES recognises that all staff need to achieve a balance between their home and their work in order to live and work healthily; this policy aims to provide ways of achieving that balance through flexible working practices.

NES is committed to reflecting the diverse population of Scotland and to the integration of equal opportunities into all aspects of employment. The Flexible Working Practices Policy aims to help attract and retain a diverse staff group, valuing the differing needs of individuals, some of whom would be unable to work without flexible working practices.

NES is committed to operating flexibly by making a number of alternative working patterns immediately available to staff, however, this would need to be balanced with the exigencies of the service at the time of application.

These flexible working practices are open to all staff who are directly employed by NES in line with the NHS Terms and Conditions of Service Handbook, regardless of their current working pattern. All staff have a right to be treated fairly and to have their personal preferences taken into account. However, the nature of work in different Departments and in individual jobs varies to the extent that a request for a working pattern in one Department may be approved whilst, in another Department, it cannot be approved. Individuals will be given the reason why a request is not approved and can appeal against it.

All parts of the organisation are inter-dependent, so flexibility has to be managed in such a way that recognises different requirements and preferences. This will mean managers and staff working closely and creatively together to achieve ways of working that will meet the needs of the individual member of staff, the manager, the team and the wider organisation.

Work should be planned and resourced so that working long hours will be unnecessary and managers are expected to set a good example for their staff by keeping reasonable hours and taking holiday entitlements.

The benefit of flexi time will be made available to as many staff groups as possible, which will enable staff to be responsive to both home requirements and work requirements.

Although every effort will be made to accommodate employees, an application can be refused for valid and objective service/operational reasons.

NES will monitor this policy to ensure consistency across the organisation.

## 2. Principles

The following principles apply:

- The needs of all staff will be respected. Differences in the type of work requirements for different jobs and Departments will mean that there will be local variation in how flexible working practices can be adopted. However, requests for flexible working practices will be considered fairly in line with this policy and the NES Family Friendly policies and reasons given if they cannot be accommodated.
- The commitment to flexibility is two-way. Staff and managers need to work creatively together to be responsive to the needs of staff but also the workplace.
- NES will promote and support a culture of delegation and empowerment as one means of achieving flexibility and responsiveness.
- NES is committed to enabling staff to achieve a work-life balance and managers will lead by example in the way they manage their own work life balance.
- Managers will work with staff to achieve their full potential, irrespective of their working pattern.
- In accordance with the Agenda for Change – NHS Terms and Conditions of Service Handbook 'It is expected that Annual Leave will **normally** be taken in periods of not less than ½ day/shift.
- Work will be planned and resourced adequately so that staff are not required to work additional hours on a regular basis.
- Employees should not be sent home if the IT system fails but instead carry out alternative work where possible. Employees may wish to utilise flexi time/working from home/working from a different location and this should be both supported and approved by the line manager. Additional guidance should be sought from the HR Business Partner/Associate HR Business Partner if necessary.

## **SECTION 2: INTRODUCTION TO FLEXIBLE WORKING PRACTICES**

### **1. The statutory right to request flexible working practices**

Certain members of staff have a legal right to request a permanent change to their working pattern. This legal right applies to staff who are directly employed by NES, have at least 26 weeks' service, have not made a previous application for flexible working practices within the past 12 months. The statutory right to request flexible working practices applies to staff who meet the criteria below.

- have or expect to have parental responsibility of a child aged 16 or under or a disabled child under 18 who receives Disability Living Allowance (DLA)
- are the parent/guardian/special guardian/foster parent/private foster carer or as the holder of a residence order or the spouse, partner or civil partner of one of these and are applying to care for the child
- are a carer who cares, or expects to be caring, for an adult who is a spouse, partner, civil partner or relative; or who although not related to you, lives at the same address as you

Staff who meet the above criteria have a statutory right to request the following on a permanent basis:

- a change to their hours of work
- a change to their times of work
- to work from home.

This includes the right to request any flexible working practice, including those which have not been made generally available within this policy. The procedure for making a request is covered in Section 3.

Although all staff may request flexible working, statutory requests for flexible working can only be made for the purpose of providing care, as detailed above. Although managers will normally accept such requests in good faith, NES may reasonably ask for evidence. Abuse of the statutory right to request flexible working is regarded as misconduct and may be subject to disciplinary action.

### **2. The availability of flexible working practices in NES**

NES will continue to develop its working practices in parallel with the development of its management practices, family friendly ethos, the needs of staff, and the operational requirements of the organisation.

The following flexible working practices are immediately available for all staff and will be introduced, monitored, reviewed and revised in the light of experience and in discussion with the Partnership Forum:

- flexitime
- compressed hours
- reduced working year
- part-time
- job share
- home working
- phased retiral.
- employment breaks

Traditionally, employers have made decisions on how work should be organised and so which posts should be advertised on a particular working pattern (eg part-time, shift work etc). Now, certain staff (particularly parents and carers) have been given a statutory right to request different working patterns and, where possible, be accommodated. NES is committed to equal opportunities and diversity and so has extended the right to request the working arrangements covered by this policy to all staff, provided they meet the legislative criteria of 26 weeks' service in NES. It should be noted that the only exception to this is an employment break which requires 12 months' service in NES.

NES has particular aims in increasing flexible working practices across the organisation:

- to retain skilled, experienced staff
- to respect all staff's right to a work life balance
- to enable staff to come back to work after maternity leave
- to attract new staff from a wider pool of applicants
- to increase recruitment of under-represented groups, such as people with disabilities
- to optimise the efficiency and effectiveness of NES through utilising different working patterns
- to avoid work-related stress by ending long hours working
- to create a responsive and flexible organisation
- to accommodate different religions and beliefs

There may be occasions, however, when flexible working would not be possible. An application for flexible working can only be refused for valid and objective service/operational reasons.

### **3. Monitoring arrangements**

NES will monitor this policy by collecting statistics on a regional basis, showing applications made and accepted or rejected. These numbers will be collated annually for submission via the governance framework. Analysis of

statistics will take place within HR&OD by equality strands to ensure that no particular group is being unfairly treated

## **SECTION 3: PROCEDURE FOR APPLYING FOR FLEXIBLE WORKING**

### **1. Introduction**

As an employer, NES recognises that employees need to balance their working and home lives. NES will therefore give due consideration to employee requests to change their work pattern. This procedure covers any member of staff wishing to change their current standard working pattern to, for example, less than full time hours.

### **2. Eligibility**

This policy applies to all employees, whether they are full time or part time, who have been continuously employed by NES for at least 26 weeks at the date of the application; are not an agency worker; and have not made another application to work flexibly during the past 12 months.

Applications from disabled staff, where these constitute a reasonable adjustment, will be approved.

Applications for requests to work flexibly can only be made once every 12 months. However, NES may consider additional requests, depending on the changed circumstances in the individual case.

### **3. Procedure for Submitting a Flexible Working Application Form**

- Application

All individual applications for flexible working must be made on the Flexible Working Application Form (Appendix A). The completed form should then be submitted to the employee's line manager. This application should be acknowledged in writing by the line manager within 2 weeks (Appendix B). In order to monitor the fairness of flexible working requests a copy of the Flexible Working Application Form should be submitted to the Depute Director of HR & OD.

- Initial Meeting

The line manager will hold a meeting with the employee to discuss the application within 4 weeks of the date on which the application was received. Where the circumstances warrant it, this period can be extended by mutual agreement.

- Communication after Initial Meeting

The manager will inform the employee of their decision in writing within 2 weeks of the date of the initial meeting.

- Request Accepted

If the request is accepted, the line manager must confirm this in writing to the employee (Appendix C), specifying the new working pattern and the date from which it will take effect. A Change Form must be completed and submitted to the appropriate HR Business Partner

- Request Unsuccessful

If the request is unsuccessful, the line manager must, confirm the reasons in writing to the employee (Appendix D). Non-acceptance of an application for flexible working can only be for valid and objective service/operational reasons. A copy of this letter must be sent to the Depute Director of HR & OD.

The employee should also be provided with details of the formal appeal procedure.

There is also a provision that, before progressing to appeal, the manager and the employee seek advice on resolving the matter from an appropriate HR Business Partner and a Staff Side 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. Service Reason for Refusing a Request**

An application can only be refused for valid and objective service/operational reasons where it is considered that a change to the employee's work pattern would:

- Create an unacceptable additional burden of 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 either the organisation or the employee
- Result in an inability on the part of the organisation to re-organise the work of other staff
- Result in an inability on the part of the organisation to recruit additional staff or
- Result in the employee working during periods of time when there would be insufficient work.

In addition, there may be occasions where planned organisational changes, or government legislation, might make it impracticable for the organisation to grant an employee's request for flexible working.

## **5. Appeal Procedure**

An employee can appeal against the decision to refuse their application by submitting a Notice of Appeal Form (Appendix E) to the Depute Director of HR & OD within 2 weeks of receiving written confirmation that their application for flexible working has not been successful. The notice of appeal must be dated and the grounds of appeal clearly set out.

## **6. Appeal Hearing**

A hearing will be held to discuss the appeal within 2 weeks, where possible, of the Notice of Appeal form being received by the Depute Director of HR & OD. The Depute Director of HR & OD will write to the employee, confirming receipt of their appeal application (Appendix F). The Appeal Panel will consist of a manager who is at a more senior level than the manager who made the original decision and an appropriate HR Business Partner, neither of whom should have been involved in making the original decision.

**NB** A hearing will not be required where, within 2 weeks of the Notice of Appeal form being received by the Depute Director of HR & OD, the matter has been satisfactorily resolved informally as outlined above.

## **7. Representation**

It is the right of all employees to be represented or accompanied by a representative of a recognised trade union or professional organisation or by a work colleague at all stages of the procedure. It is the responsibility of the employee to arrange this and advise the manager hearing the case of the name of their representative. Employees shall be reminded of their rights prior to the hearing.

## **8. Conduct at the Hearing**

- Both the Manager who made the original decision and the employee will be in attendance at the hearing. Both parties must be given full opportunity to present cases orally and call any witnesses, subject to the names of such witnesses being notified to the manager in advance of the hearing
- The employee or the employee's representative state their cases in the presence of the management representative and may call witnesses to support their case;
- The management representative and panel members shall have the opportunity to ask questions of the employee/representative and witnesses;

- The management representative shall state their case and may call witnesses;
- The employee or representative and panel members shall have the opportunity to ask questions of management representatives and witnesses;
- Witnesses should only be present whilst giving evidence;
- Written evidence not previously circulated and presented at the hearing may only be admitted at the discretion of the manager hearing the appeal;
- The manager hearing the appeal may ask either party to clarify/expand upon any previous evidence submitted and explain the relevance of any witnesses called;
- There should be full consideration of evidence produced prior to the hearing. Exceptionally the hearing may be adjourned at the discretion of the manager hearing the appeal to enable further evidence to be produced by either party;
- The manager will have the opportunity to sum up the proceedings followed by the employee/employee representative. At this point neither may introduce any new information.

## **9. Notice of the Decision**

The employee will be informed, in writing, of the outcome of the appeal within 2 weeks of the hearing (Appendices G & H).

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. A Change Form must be completed and submitted to HR&OD.

Where the appeal is unsuccessful, the notice of the decision will state the grounds for the decision and an explanation of the reason that these grounds were found to apply. It should also specify that this is the final stage of the process.

The Appeal Panel may refer the matter back to the line manager for reconsideration if it is felt that new factors that need to be taken into account have emerged.

## **10. Extension of Time Limits**

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

Attached at Appendix I is a flowchart, which highlights the different steps in this process

## **11. Withdrawal of Application**

The organisation 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 the organisation considers necessary to assess whether the employee's request to work flexibly should be granted.

The withdrawal of the application will be confirmed in writing to the employee.

## **(a) FLEXI TIME WORKING GUIDELINES**

### **1. Introduction**

NES is committed to the principles of family friendly working and recognises that flexi-time gives employees and Managers considerable reasonable discretion in their hours of work. Flexi-time is a system under which employees can vary their contracted working hours within agreed set limits. Employees can start and finish their working day, as well as take a flexible lunch break, to suit their personal lives as well as their working lives.

For those eligible, this system also enables employees to have a debit balance or accrue extra hours, which may be taken as time off at a time that suits them.

Flexi-time provides benefits to both the individual and NES. Employees can determine their working pattern, enabling them to fit personal commitments into their normal working day. They can also work hours which help when travelling in rush hour traffic, or which provide them with an opportunity to work at times of the day where they will not be disturbed. NES also sees benefits from less absenteeism, the ability to recruit and retain employees as well as having a more motivated workforce.

### **2. Flexi-Time System**

The benefit of flexi-time will be made available to as many staff groups as possible. There will, however, be certain posts that will be deemed unsuitable for inclusion. In such circumstances, the reasons will be provided to the employee in writing. It should be noted that flexi-time does not apply to agency staff.

Under the flexi-time system the working day will be divided as follows:

Bandwidth	From 0700 hours to 1900 hours
Flexible Hours	From 0700 hours to 1000 hours From 1200 hours to 1400 hours From 1600 hours to 1900 hours
Core Time	From 1000 hours to 1200 hours From 1400 hours to 1600 hours

Apart from periods of leave or sickness, core time should be worked by all employees. Any absence during core time must be agreed by the appropriate line manager. Circumstances outwith the norm should be considered on an

individual basis and in accordance with the principles outlined in Section 1 of the Flexible Working Practices and Procedures.

Lunch can be taken any time between 1200 hours and 1400 hours, however a minimum of 30 minutes should be taken.

### **3. Less than Full Time Staff**

This agreement will apply to less than full time staff with the relevant changes to work times.

### **4. Settlement Period**

The settlement period will be 4 weeks and there are 13 such periods in a year. The number of hours required to be worked during the 4-week settlement period will be 4 times each employee's normal working week.

Employees may accrue up to 1.5 days credit or a 1.5 days debit (pro rata for part time employees) during each settlement period. At the end of the settlement period, a credit of 1.5 days or a debit of 1.5 days may be carried into the next period (pro rated for less than full time employees). The maximum time that can be taken off in each settlement period is 1.5 days flexitime. In exceptional circumstances, a Line Manager may approve the carry over of hours in excess of the credit/debit limits on the understanding the balance is reduced during the following settlement period.

Where an employee continually exceeds the 1.5 day debit limit, disciplinary action may be considered.

Flexi Time may be authorised outwith the current settlement period but it is the responsibility of the employee to ensure that they have the time to take without exceeding the debit limit.

### **5. Absences**

Authorised absences such as sickness, annual leave and other leave of absence with pay will be classed as one day/half a day for recording purposes, based on contractual hours.

Appointments at, for example, doctors and dentists, where there is a choice of appointment time should, wherever possible, be made out with core time. Where there is no choice (eg an emergency appointment), time will be credited to staff on the flexi time system for the duration of time required to attend the appointment.

Appointments at hospitals or clinics that are not flexible can be taken in core time, and the time will be credited to staff on the flexi time system.

When attending an appointment and leaving directly from home NES considers it reasonable that any credit given will be based on business hours ie. 9am – 5pm.

All other appointments, wherever possible, should be arranged outwith core times and flexi time would apply.

## **6. Recording of Hours Worked**

All employees who take part in the scheme, will be required to complete a flexi-sheet. Employees will be expected to record their own time on this sheet, which will include their start and end times as well as breaks for lunch. The times should be recorded as they occur and not left until later, as this can lead to errors. Time should be recorded to the nearest 5 minutes.

The flexi-sheet is available on the Intranet. These sheets are set up to automatically calculate the hours worked and time should be entered in the 24 hours system. The reverse of the sheet should be used for booking leave using credit of hours. This should be pre-approved by the appropriate Line Manager.

At the end of the 4-week period, the sheet should be printed, signed and passed to the Line Manager for approval.

Annual Leave, Absences and days out of the office should also be marked clearly on the flexi-sheet.

When taking annual leave at the end of the 4-week period, the flexi-sheet should be updated and submitted to the appropriate Line Manager prior to taking annual leave.

## **7. Working at another location/attending a training course**

Where an employee is travelling to another location direct from home, and does not call into the office on route, the start time is calculated as follows:

- if the employee travels in the direction of their normal place of work, the start time is the time they left their home plus their normal travel time to the office eg, normally takes 15 minutes to drive to the office, left home at 7.30, recorded start time would be 7.45
- if the office location is in the opposite direction from which the employee travels, the recorded start time is the time the employee left their home.
- If the location lies between the employee's home and their normal place of work, the recorded start time is the time the employee arrives at the different location.

When working away from the office or attending a Training Course, every attempt should be made to take the 30 minute lunch break.

Required weekend work or required work before 7am or after 7pm will be handled outside the flexible working hours system and appropriate time off in lieu will be given. These hours are excluded from the normal carry-forward credit or debit arrangements and should be accounted for separately.

## **8. Leaving NES**

It is the responsibility of the employee to ensure there is no credit/debit balance at the end of their employment. There will be no payments made in lieu of a credit balance.

## **9. Partnership Working**

This policy is continually monitored by the Partnership Forum and any suggestions/comments on its application would be welcome by the Employee Director.

*It should be noted that flexi time is a benefit provided to employees and is not a contractual entitlement.*

## **(b) COMPRESSED HOURS**

### **1. Introduction**

Any consideration of compressed hours by staff and managers as a flexible working pattern must be given in the context of the full Flexible Working Practices Policy and Procedures.

### **2. Principles of compressed hours**

Compressed hours are a pattern of flexible working where staff work a full-time week in fewer days than normal; for example, working 37.5 hours in the space of four days, followed by a three-day weekend; or by working a nine-day fortnight; or by having each Wednesday afternoon off. The pattern of working time and time off can be quite creative but the pattern is usually repeated on either a weekly or fortnightly basis.

All full time staff at NES are eligible to apply for contractual compressed hours by using the form at Appendix A.

Compressed hours are particularly useful in areas where there are regular peaks of work demand during the week and extra resources are needed. It can also be of benefit to staff who have a regular commitment in their personal life or who want to organise their time differently. NES needs to be fully operational for five days/week, so line managers need to plan the staff numbers and skill mix before approving applications especially where there is a popular request for, for example, Fridays off.

### **3. Health implications of compressed hours**

In order to protect the health and well-being of staff, the Working Time Regulations restrict the number of hours that staff can work per day and state minimum periods of rest overnight. Confidential advice is available to staff from HR&OD. Line managers who have received an application for compressed hours, should discuss any implications with the appropriate HR Business Partner before reaching a decision.

Even where the Working Time Regulations are being met, managers have a responsibility for ensuring that working patterns are not onerous or become onerous for staff. Should they believe that staff's health or performance is being adversely affected, they can, after consultation with staff and due consideration, recommend an alternative. An occupational health referral may be helpful to identify any health issues and advise on how these might best be addressed.

## **(c) REDUCED WORKING YEAR**

### **1. Introduction**

Flexible working in the form of a reduced working year can take a number of forms. One of the most common examples is that of term-time working, which is a formal agreement whereby the duties and responsibilities of a post are carried out (either full-time or part-time) during school terms. It allows employees to remain on a permanent contract and gives them unpaid leave during school holidays. The salary of the post is reduced proportionately to the hours worked by the post holder. These principles would apply regardless of whether a reduced working year contract is explicitly linked to school terms or not.

A reduced working year represents an opportunity for staff to work during certain agreed periods of the year while maintaining their career prospects and personal development.

### **2. Operation of the policy**

Employees on reduced working year contracts are expected to take their contractual entitlement to paid annual leave during pre-agreed periods of leave (such as school holidays). Subject to local agreement, a maximum of five days' contractual paid leave may be held to be taken with prior notice at times outwith holiday periods for needs which may arise from time to time.

Each employer must agree with their line manager how much additional unpaid leave is required to cover the leave period and when exactly paid leave will be taken. These arrangements should be made at the start of the working year agreement.

### **3. Calculation of pay**

Payment of staff who work reduced working year contracts allows for twelve equal payments over the year to be made using a formula to deduct monies due for unpaid leave.

Once an employee has agreed with their manager how much unpaid leave will be taken, their paid annual leave allocation, (this will include public holidays due on a pro rata basis) will be recalculated. This calculation will take account of the unpaid period of leave (no annual leave will be accrued during unpaid leave).

Following this calculation, the annual salary will be calculated on a pro-rata basis for the period of paid employment. This figure will then be paid in twelve equal payments throughout the year

Once an employee has agreed with their line manager how much unpaid leave will be taken and when, the line manager must inform payroll. The necessary deductions to pay for the periods of unpaid leave will be made the month they occur.

#### **4. Procedure**

Staff wishing to work compressed working hours should apply to their line manager by following the flexible working procedure at Appendix A.

## **(d) PART-TIME WORK**

### **1. Introduction**

Any consideration of part-time work by staff and managers as a flexible working pattern must be given in the context of the full Flexible Working Practices Policy and Procedures and the NHS terms and conditions for part-time staff.

### **2. Principles of part-time work**

Part-time work is a contractual arrangement where staff work fewer than full-time hours. It is particularly useful in areas where there is either insufficient work for a full-time post or where there is a greater need for staff at particular times or days of the week than at others. It is also beneficial in maintaining staff cover as, when a part-time member of staff is on leave or off sick, the effect has less impact than a full-time person. For staff, it is useful where they are not able to work all day for five days per week, for a variety of reasons.

All staff at NES are eligible to apply either for part-time work or to vary their part-time hours by following the Flexible Working Procedure in Section 3.

Staff who wish to return to work after maternity leave on a part-time basis, need to give their manager at least 2 months' written notice of their request prior to their return to work date. If the job is unsuitable for part-time working, the manager will check the availability of other part-time posts in NES for which the member of staff can apply. Such circumstances will be managed taking into account current legislation, as well as organisational needs and capacity.

Legislation<sup>1</sup> gives part-time staff the right to be treated equitably as their full-time colleagues, for example in being given access to a wide range of pro rata benefits, for example pay, annual leave, public holidays, sick pay, pension, maternity/parental leave. For part time staff in Agenda for Change bands 1 – 7 who work more than their contractual hours, overtime is payable if staff work more than 37.5 hours per week and it has been agreed in advance with their manager.

### **3. Implications of part-time work**

Care needs to be taken that part-time staff are fully included in all necessary communications and learning activities. In order for staff to be able to contribute fully, team meetings should be arranged at convenient times as far as possible, with a formal arrangement for keeping them up-to-date on occasions where attendance is not possible. The same applies to

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<sup>1</sup> Part-time Workers (Prevention of less favourable treatment) Regulations 2001

performance management, personal development plans and access to learning activities.

Staff on part-time contracts should take a proactive approach to communications and ensure, as far as possible, that they seek out the information they need and book meetings in advance with the people they need to interact with, including their line manager.

## **(e) JOB-SHARE**

### **1. Introduction**

By implementing this job share policy, NES aims to create an environment that will allow all employees to utilise their skills, talents and experience and thereby allow it to both recruit and retain a well motivated and committed workforce.

NES will actively promote job sharing by ensuring that all job advertisements state that applications will be welcomed from candidates seeking a job share opportunity.

### **2. How job share might arise**

Job sharing can be introduced into a post in a number of ways (internal applicants should apply using the Flexible Working Application Form at Appendix A):

- An existing employee formally applying to management for a job share arrangement to be agreed in respect of the post they occupy eg woman returning from maternity leave
- An internal application being made by one member of staff to share a post.
- A joint internal application being made by two or more existing employees as a unit to share a post.
- An external application being made by a candidate to job share a post. However, filling the post on a jobshare basis will only be permitted if it is possible to fill the whole of the post with two appropriately qualified job share applicants who at interview are ranked as the best candidates for the post.
- A joint external application being made by two candidates as a unit to job share a post.
- Two or more separate applications being made, whether internal or external, which can be matched together to form a job share unit.

### **3. General Principles**

#### Sharing of Duties

The sharing of the duties and responsibilities of a post may take several forms. The aim in all cases is to ensure the most efficient means of operation. Division may be into projects, tasks, clients or merely time, as the case may be.

Great care should be taken not to confuse working arrangements with the job description. Although the duties may be divided, the overall responsibility must be shared. One partner should not be able to monopolise the most prestigious areas of work.

The partners should always be in a position to claim that at some time each had fulfilled the duties and responsibilities of the whole post.

Hours should be organised to suit both the service and the employees. However, it is understood that the hours/days/weeks agreed with either job sharer should always be such that should a part vacancy occur, the working arrangement to be advertised will form a sufficiently viable package to attract new applicants.

#### **4. Terms and Conditions**

The general spirit and intention of the scheme is that all terms and conditions of service should be applicable to job sharers on a pro-rata basis.

##### Contract of employment

Each partner to a job share will hold an individual contract of employment. The postholder's job title will be that given to the established post with the endorsement "(job share)" – for example: "Administrative Assistant (job share)".

The hours to be worked will be individually stated for each partner to the job share.

##### Rate of Pay

Pay rate will be pro-rata to the salary grade for the number of hours worked. Commencing salary and increments will be determined in accordance with NHS terms and conditions.

##### Annual Leave

The standard annual leave entitlement under NHS terms and conditions of service will apply pro-rata to the number of hours/ days worked.

##### Public and Extra Statutory Holidays

Public and statutory holidays will be agreed between the job share partners and their line manager to ensure that a pro-rata division is maintained and legislative entitlements honoured.

##### Sick Pay.

Job sharers shall have applied to them the provisions of the appropriate NHS terms and conditions of service pro-rata to the number of hours worked.

### Maternity Leave

Job sharers shall be entitled to the appropriate NHS terms and conditions relating to maternity leave. Payment will be applied on a pro-rata basis.

### Paternity Leave

Job sharers shall be entitled to the appropriate NHS terms and conditions relating to paternity leave. Payment will be applied on a pro-rata basis.

### Changeover/Overlap Arrangements

Where continuity is regarded as an essential requirement of the job share, such arrangements must be achieved within the normal established total hours, subject to management discretion.

### Superannuation

All job sharers will be able to join the NHS Superannuation Scheme. However, because job sharers are on reduced pay this also means that they will pay less into the fund and in turn will get lower pension benefits for the period of the job share. Job sharers should consult the Scottish Public Pensions Agency to discuss their particular circumstances.

### Overtime

Overtime will be payable (where appropriate) if an individual job sharer works more than the full time hours per week for the post (following management approval).

### Training

Job sharers shall have access to training opportunities on the same basis as full-time employees with respect to day release qualification courses, e.g. if a course requires full day release, half a day shall then be credited to working time and half a day shall be taken in the job sharer's own time. In respect of work-related training courses, job sharers will be paid only where attendance coincides with their normal working hours. However, where training takes place on a day when a sharer does not normally work, they should be allowed time off in lieu.

### Notice Periods

Normal notice periods will apply.

## **5. Selection Procedure**

If an existing employee wishes to apply for jobshare, the Flexible Working Procedure in Section 3 should be followed.

Where an internal job share request is made, there are two possible outcomes. The request may be refused on grounds of business needs and the reasons for this would have to be stated in writing to the postholder. If the jobshare request is provisionally approved, subject to a jobshare partner being found, the applicant will be informed in writing that the post will be advertised once, and will be given a date by which this recruitment will be

completed and on which the outcome of the application can be discussed. The postholder will continue to work full-time hours until the jobshare meeting is held and a successful outcome and start date for jobshare has been notified in writing.

If no appointment can be made, the postholder will be informed in writing that their job share application has been unsuccessful on the grounds that NES is unable to source a job share partner. Under these circumstances, full consultation will take place with the job share applicant and his/her trade union/professional organisation representative and attempts would be made to redeploy the applicant into another suitable job share post, should one arise.

Staff returning from maternity leave on a temporary part-time arrangement are dealt with under the NES Maternity Policy. Permanent job share requests following maternity will be dealt with under this policy.

Where a job share application is made by an external candidate/s each job share applicant will be required to complete an application form for the post and each shortlisted candidate will be interviewed separately in accordance with normal recruitment practice.

Where appropriate, according to the nature of the post, job sharers seeking a partner through advertisement will be given the opportunity to meet shortlisted applicants before the interview. This will in no way constitute part of the recruitment process.

Job sharers shall be treated in the same way as full-time employees in relation to promotional opportunities.

## **6. Termination/Resignation**

In the event of the resignation of one job share partner, the remaining job sharer may be offered the post as a full-time post. If it is demonstrated that there is good reason for not making such an offer, or if the remaining partner does not wish to take the full-time post, the jobshare vacancy will be advertised as per the normal recruitment procedure.

## **7. Working Arrangements**

There are various ways in which the working week may be divided for job sharers. Possible options include working on a half-day basis, a half weekly basis or alternating days. As far as possible, working hours must be agreed by both job sharers and line management. In normal circumstances job sharers will not be required to cover their partner's absences, though they may opt to do so in specific instances.

The working patterns of job sharers shall not be altered without full consultation and after attempts have been made to reach agreement.

If there are supervisory responsibilities involved in the post, it is important that the job sharers have a similar approach to management and communicate effectively over any dealings with employees. It is also important that communication given to the employees supervised by the jobsharers is consistent and that employees fully understand how the job share operates.

## **8. Individual Responsibility**

Each job sharer is responsible individually for the satisfactory performance of his/her own duties. Each partner should be assessed separately and similarly. The objectives set for job share partners may include an objective to ensure the success of the job share partnership.

A job share partner is not responsible for their partner's conduct and capability and, for the purposes of the disciplinary and grievance procedures, job sharers will be treated individually.

**(f) HOMEWORKING**

For full details of homeworking, please refer to the NES Homeworking Policy.

## **(g) PHASED RETIRAL**

### **1. Introduction**

Any consideration of phased retiral by staff and managers as a flexible working pattern must be given in the context of the full Flexible Working Practices Policy and Procedures and also the NES Retirement Policy.

### **2. Process**

In order that an employee can adjust to the prospect of increased leisure hours, the following gradual reduction in working hours will be offered three months prior to retirement for staff who normally work 5 days per week:

- Third month before retirement – normal hours reduce to 4 days per week
- Second month before retirement – normal hours reduce to 3 days per week
- Last month before retirement – normal hours reduce to 2 days per week

For employees whose normal work pattern is not spread over 5 days per week e.g. part time staff, the following gradual reduction in working hours will be introduced three months prior to retirement:

- Third month before retirement – normal hours reduce by 20%
- Second month before retirement – normal hours reduce by 40%
- Last month before retirement – normal hours reduce by 60%

The employee will receive full superannuable pay during this time based on the hours they would normally have worked.

Employees who wish to take advantage of this facility must give their manager at least 3 months notice prior to the commencement of their period of phased retirement. It should also be noted that the pattern of reduced hours can only be permitted on the basis shown above i.e. the paid time off cannot be aggregated and spread over a longer or shorter period.

The right to reduce their hours during the last three months of service applies only to employees who have attained the age of 60 (or 55 for Special Categories). This right will not, therefore, apply to employees taking voluntary early retirement, early retirement on the grounds of ill health or as a result of organisational change/redundancy etc. The only exception to this will be employees taking early retirement who have attained the age at which they can retire (or could retire if they were a member of the NHS Superannuation Scheme) without any reduction being made to their NHS pension and where

that pension is (or would be) calculated solely on their own contributions. An example would be for an employee who has retained rights to retire at age 60.

## **(h) EMPLOYMENT BREAK**

### **1. Introduction**

Employment Break schemes are a means of managing relationships between employers and employees during periods when people want to take a break from their working lives. The most typical examples are caring for elderly or sick relatives and parents taking time out to raise a young family to school age. However the scope has widened to include people of all ages who have reached a point in their lives where they want a period away from work but with the intention of returning later.

Although every effort will be made to accommodate employees an application can be refused for valid and objective service/operational reasons.

The employees post should normally be covered by existing resources within the Directorate, however, should the Line Manager consider that backfill may be required the normal Business Group Sub Recruitment (BGSR) process must be followed.

### **2. Definition**

An employment break is special leave without pay for a specified period of time.

### **3. Purpose**

The purpose of employment break schemes is to retain the valuable skills and experience of people who will be a real asset in the future.

While no guarantee of a return to a particular post can be given, every effort will be made to place individuals in posts of similar grade and responsibility to that held prior to the break.

The scheme provides for people to request to take a longer period away from work than that provided by parental leave and other leave arrangements.

### **4. Eligibility**

Employees must have at least 12 months' service with NHS Education for Scotland.<sup>2</sup>

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<sup>2</sup> GPSTRs may be considered as an exceptional circumstance with regard to continuous employment. The rationale for this exception is that trainees have no alternative but to progress across a number of Boards whilst training. All requests for an employment break by GPSTRs will be considered by NES on a case by case basis.

## **5. Scope**

Examples of the main reasons for which employment breaks can be used are:

- Caring for a dependent relative
- Continuing childcare following a period of maternity leave
- Undergoing further education and training
- Voluntary work

Staff on employment breaks will not normally be allowed to take up paid employment with another employer except where, for example, work overseas or charitable work could broaden experience. In such circumstances written authority from NHS Education for Scotland would be necessary.

Employees should apply to their line manager and each application will be considered on the merits of the individual case. If this is supported by the Line Manager final approval to progress the application will be given by the Business Group Sub Group for Recruitment (BGSR). Full details should be provided in writing to the employee if an application has been rejected, clearly explaining the reasons for doing so.

The applicant has a right to appeal where a request has been refused using the Grievance Policy and Procedures, which can be found on the NES intranet under HR policies.

## **6. Duration of Employment Break**

The maximum period for an employment break is 5 years. An employee may however take one single break or 2 breaks totalling 5 years throughout their employment provided that the total periods of absence do not exceed 5 years. A new application must be made for each break requested. The minimum length of break should be three months.

## **7. Application Procedure**

Employees who wish to apply for the scheme shall discuss the matter initially with their line manager.

Applications should then be made on the Employment Break Application Form, a copy of which is attached at Appendix J. Applications should normally be made at least three months prior to commencement of the proposed break although in exceptional circumstances late applications may be considered depending on individual circumstances. Applications, if supported, by the Line Manager, would then progress to the BGSR for approval.

Wherever practical, opportunities will be provided for the employee to return to work for short periods each year to undertake paid temporary work

appropriate to the post or to participate in in-house training. Arrangements will be made on an individual basis with the line manager at the time of application.

If approved, the employee shall be issued with appropriate documentation by HR&OD, which requires an agreement to abide by the terms and conditions of the employment break.

## **8. Practicalities during Employment Break**

Employees who participate in the scheme will be obliged to advise their manager of any change in circumstances, e.g. address.

If the employment break lasts for more than 1 year, employees will notify their line manager of their intention to continue the break at least 3 months prior to the end of each year.

Employees must keep up to date with their relevant professional registration needs, including attendance at specified training courses and conferences. In addition employees must check their individual registration requirements before taking up an employment break as this may have a bearing on what commitment is required to NES in terms of returning to work for specific periods of time in order to maintain fulfill registration requirements.

The line manager will maintain contact with the employee and will undertake to send them appropriate information.

## **9. Return to Work**

While no guarantee of a return to a particular post can be given, every effort will be made to place individuals in posts of similar grade and responsibility to that held prior to the break.

If the employee returns to work within one year, the same job will be available, as far as is reasonably practicable. For any longer breaks employees will be placed on the redeployment register 6 months prior to the end of the employment break.

The notice required before the return to work should normally be two months if the break is less than a year and six months if the break is more than a year. During this period notification of vacancies will be sent to the individual by HR.

If, prior to the commencement of an employment break, an employee works in a part time/job share arrangement every effort will be made to allow the employee to return on that basis.

Appropriate training arrangements for re-induction to work will be arranged by the Line Manager.

## **10. Organisational Change**

### Break of less than 1 year

If the employment break is less than 1 year and the post vacated is subject to organisational change or deemed to be surplus to requirements, the employee and/or their representative will be consulted and made aware of the circumstances prior to any action being taken. In such circumstances the employee will be treated no less favourably in terms of procedural arrangements, placement on the redeployment register and entitlement to protection on redundancy provisions.

The effective date for implementation of protection of earnings or redundancy payment, if applicable, will be the date of introduction of the organisational change. Calculation of any payment due will be based on earnings immediately prior to the employment break.

### Breaks of over 1 year

If the break is longer than 1 year the employee will be placed on the redeployment register and subject to the conditions laid out in the NES Organisational Change and Redeployment Policy

## **11. Terms and Conditions of Service**

- **Contract Status**

Employees will not be required to resign to take an employment break, although there will be a change to the contract of employment. An employment break shall not be regarded as a break in service although the break itself will not count as reckonable service.

This means the time taken as an employment break will be granted as unpaid time off and there will be no entitlement to: holiday pay, sick pay, paid maternity leave, parental leave, special leave, incremental movement or redundancy pay.

Any periods of paid employment with NES during a break eg to attend a training course, will count as reckonable service.

Entitlements accrued prior to the employment break will be maintained.

Further advice may be obtained from the appropriate HR Business Partner.

- **Superannuation**

Break of 6 months or less

For an employment break of 6 months or less employees may elect to continue to contribute to the superannuation scheme. For this 6 month period the employee and the employer are both liable to pay contributions. This should be raised with the appropriate HR Business Partner, who should ensure that this information is detailed on the notification of change form

Break of longer than 6 months

Advice should be sought on an individual basis from the Scottish Public Pensions Agency (SPPA) prior to commencing an employment break.

- **Lease Cars**

A member of staff who is provided with a lease car will be required to return the car to the Car Leasing Section for the period of their career break if it has a scheduled duration of over 12 months.

However, as the full leasing cost of the vehicle will be borne by the employee if it is retained during a career break, s/he is advised to discuss the matter with the member of the Car Leasing Team prior to embarking upon such a break.

In the event of a lease vehicle being returned, a termination fee may apply.

- **Equipment**

All NES equipment must be returned prior to the commencement of an employment break.

- **Sick Leave**

While on an employment break employees would not be entitled to sick pay.

- **Annual Leave**

An employee on an employment break will retain accrued entitlement for annual leave prior to the break. There will be no entitlement to annual leave while on an employment break.

- **Maternity Leave**

Employees will retain the same entitlement to Maternity Leave as that accrued prior to going on an employment break. Only reckonable service while on an employment break will count towards additional entitlement.

While on an employment break, employees will not be entitled to Maternity Pay.

Employees can apply to request to move directly from maternity leave on to an employment break (parental leave cannot be taken prior to an employment break). They must seek advice from HR as there may be financial implications surrounding their maternity pay. This may involve repayment of OMP received, less SMP, should they not return to work for a period of at least 3 months following the end of an employment break.

## **12. Continuing Education Policy**

Any employee considering an employment break with outstanding repayments should contact payroll to discuss and agree how the deductions from salary will be managed. Employees can pre-pay the monthly deductions in advance of the break or arrange for the repayment schedule to be deferred for the period of the career break.

## **13. Equal Opportunities**

The Employment Break Policy demonstrates commitment to long term-career development and continued promotion of Equal Opportunities in the work place.

## **14. Breach of Terms of Employment Break Agreement**

If an employee breaches the fundamental terms of the Employment Break Agreement, this will be deemed a breach of contract and the contract will be regarded as being terminated.

**Any changes to the terms of the Employment Break Agreement must be agreed between the employee and their line manager.**

**APPENDIX A**

**Flexible Working Application Form (excluding Employment Breaks)**

<p>Personal Details:</p> <p>Name.....          ...</p> <p>Location.....          .</p>	<p>Job Title.....</p> <p>Department.....          ...</p> <p>Line Manager.....</p>
<p>Describe your current working pattern below ie days/nights/hours/times worked:</p>	
<p>Describe the working pattern you wish to work in future below, ie days/nights/hours/times worked:</p>	
<p>I would like this working pattern to start from.....</p>	
<p>Impact of the new working pattern:          (Please give details of how you think the requested work pattern will affect the department)</p>	
<p>Accommodating the new work pattern:          (How do you think this can be managed/resolved)</p>	

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

- I have been continuously employed by NES for at least 26 weeks at the date of the application; and
- I am not an agency worker; and
- I have not made another application to work flexibly during the past 12 months; or
- I have made other applications to work flexible during the past 12 months, but circumstances have changed which I have detailed above.

Applicant's signature.....

Date.....

**Please submit this form to your line manager and send a copy to:**

- **Lead Business Partner - HR**

## APPENDIX B

*Confirmation of receipt of a Flexible Working Application Form  
(to be completed by the line manager and returned to the employee within 2  
weeks)*

Dear .....

I confirm receipt of your completed Flexible Working Application.

I will arrange a meeting with you within 4 weeks from the date of your application in order to discuss it with you. In the meantime you may wish to consider whether you wish to be represented or accompanied by a representative of a recognised trade union or professional organisation or by a work colleague.

Please let me know, as soon as possible, if you will be accompanied in order that I can include your representative in the arrangements for the meeting.

A copy of this letter and your flexible working application form will be sent to the HR Business Partner.

Yours sincerely

Line Manager

cc HR Business Partner (including a copy of flexible working application form)

## Appendix C

*Confirmation of acceptance of a Flexible Working Application Form  
(to be completed by the line manager and returned to the employee within 2 weeks of  
initial meeting)*

Dear .....

Following receipt of your flexible working application and our subsequent meeting, I write to confirm what has been agreed in terms of your request to work .....

I would like to confirm that with effect from ....., your revised hours of work will be ..... per week. These hours are based on a 37.5 hour week.

Based on your request, your working hours will be performed as follows:

*Eg*    **Monday**        .....am to .....pm - ..... hrs per day  
         **Tuesday**        .....am to ..... pm - ..... hrs per day  
         **Wednesday**    .....am to .....pm - ..... hrs per day  
         **Thursday**        .....am to .....pm - ..... hrs per day  
         **Friday**            .....am to .....pm - ..... hrs per day

As you are aware a degree of flexibility will be required and there may be occasions where you will need to alter working days when needed.

I would appreciate if you could confirm acceptance of these changes by approving an online notification of change form, which will be sent to you shortly.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

Line Manager  
Cc HR Business Partner

**APPENDIX D**

*Confirmation that a Flexible Working application has been unsuccessful  
(to be completed by the line manager and returned to the employee within 2  
weeks of the initial meetings where possible)*

Dear.....

I refer to our meeting on ..... at which we discussed your application for flexible working. I have now considered your application and regret your request has been unsuccessful for the following service/operational reason(s):

.....  
.....  
.....  
.....  
.....

You have the right to appeal against this decision by completing the attached Flexible Working Appeal Form, clearly stating your grounds of appeal and sending this to .....(name) Depute Director of HR & OD at .....(address) within 2 weeks from receipt of this letter.

Receipt of your Appeal form will be acknowledge in writing and a hearing to consider your appeal will be held within 2 weeks, where possible, of receipt of the form.

You will be notified of the outcome of your appeal within 2 weeks of the hearing.

Yours sincerely

Line Manager

cc Depute Director of HR & OD



**APPENDIX F**

*Confirmation of Appeal  
(to be completed by HR and returned to the employee)*

Dear.....

I confirm that I received your Appeal Form in respect of the decision not to allow your request for flexible working on.....

I will be arranging a hearing to discuss your appeal within 2 weeks, where possible, of the above date. In the meantime you may wish to consider whether you wish to be represented or accompanied by a representative of a recognised trade union or professional organisation or by a work colleague.

Please let me know, as soon as possible, if you will be accompanied so that I can include your representative in the arrangements for the meeting.

Yours sincerely

Depute Director of HR & OD

## Appendix G

*Confirmation of Result of Appeal – Successful to be completed by HR and sent to employee)*

Dear.....

I refer to our meeting on .....at which we discussed your Appeal in respect of the decision not to allow your request for flexible working.

I am pleased to be able to advise you that your appeal has been successful. I would like to confirm that with effect from ....., your revised hours of work will be ..... per week. These hours are based on a 37.5 hour week.

Based on your request, your working hours will be performed as follows:

*Eg*    **Monday**        .....am to .....pm - ..... hrs per day  
         **Tuesday**        .....am to ..... pm - ..... hrs per day  
         **Wednesday**    .....am to .....pm - ..... hrs per day  
         **Thursday**        .....am to .....pm - ..... hrs per day  
         **Friday**            .....am to .....pm - ..... hrs per day

As you are aware a degree of flexibility will be required and there may be occasions where you will need to alter working days when needed.

I would appreciate if you could confirm acceptance of these changes by approving an online notification of change form, which will be sent to you shortly.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

Depute Director of HR & OD  
CC Line Manager

**APPENDIX H**

*Confirmation of Result of Appeal – Unsuccessful  
(to be completed by HR and sent to employee)*

Dear.....

I refer to our meeting on .....at which we discussed your Appeal in respect of the decision not to allow your request for flexible working.

I am sorry to have to advise you that the Appeal Panel has upheld the original decision and your appeal has therefore been unsuccessful. Please note that this appeal is the final stage in the process.....

Depute Director of HR & OD  
Cc Line manager

# APPENDIX I

## Flowchart for Procedure in Managing Flexible Working Requests



**APPLICATION FOR AN EMPLOYMENT BREAK**

Please complete part A and forward this form to your Line Manager for completion of Part B.

**PART A**      **for completion by applicant** (in block capitals)

Surname \_\_\_\_\_

Initials \_\_\_\_\_

Location \_\_\_\_\_

Department \_\_\_\_\_

Post \_\_\_\_\_

Date commenced employment with NES \_\_\_\_\_

Work Address  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel. No            - \_\_\_\_\_

E-Mail            \_\_\_\_\_

Contact Address for 'Keeping In Touch' Purposes  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Employment Break**

Proposed length of Employment Break \_\_\_\_\_

Start Date of Employment Break \_\_\_\_\_

Proposed Return Date \_\_\_\_\_

Are you currently on Maternity Leave and wish to request to go directly on to an employment break Yes / No

*(If yes, you will be required to repay the OMP, less SMP, received during your maternity leave at the end of your Employment Break should you not return to work for a period of at least 3 months)*

Reason for Employment Break *(If necessary please continue on a separate sheet)*

\_\_\_\_\_

—

\_\_\_\_\_

—

\_\_\_\_\_

—

I wish to apply for an extended period of unpaid leave from NES under the Employment Break Scheme. I understand that a failure to comply with the terms and conditions of the Employment Break will result in termination of employment.

I understand that if I am taking an Employment Break immediately after a period of maternity leave and fail to return to work for 3 months at the end of this, I will repay the OMP received, less SMP.

**Signature of Applicant**

Signature \_\_\_\_\_ Date \_\_\_\_\_

**PART B for completion by Line Manager**

I support/reject (delete as appropriate) the application for <<Insert name>> under the Employment Break Policy.

If rejected give reasons: \_\_\_\_\_

\_\_\_\_\_

If supported is a replacement requested  Yes  No

\_\_\_\_\_  
Signature of Line Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Director who is a member of the Executive Team

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print name

**PLEASE NOW SUBMIT A KENEXA BUSINESS CASE FOR THIS REQUEST TO BE CONSIDERED AT ETSR. PLEASE ATTACH THIS FORM TO THE BUSINESS CASE AND SEND A COPY TO YOUR HR BUSINESS PARTNER FOR INFORMATION.**