

## **NSS Flexible Working Policy**



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# DOCUMENT CONTROL SHEET

## Key Information:

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## Revision History:

<b>Version:</b>	<b>Date:</b>	<b>Summary of Changes:</b>
V1.0	October 2013	
V2.0	March 2018	Previously incorporated V-time, Compressed Working Hours and Flexi-time guidance – now standalone policy
V2.1	March 2018	Following discussion at WPTC Meeting on 21 March 2018 minor amendments related to frequency of requests.

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## **1. Introduction**

National Services Scotland, 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 outlines 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, flexitime, 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 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 in the hours they work;
- A change in 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.

### **2.2 Eligibility**

To be eligible to make a request, the employee must:

- Have been continuously employed by NSS for at least 26 weeks at the date of application;
- Not be an agency worker; and
- Not have made another application to work flexibly during the previous 52 weeks (additional applications may be considered where an employee's circumstances have changed within this time period)

This does not preclude a line manager agreeing with an employee that their request

can be approved within that time period in circumstances where the request was originally refused, but the work environment can now sustain the change requested.

### **2.3 Application**

Whilst the statutory entitlement is for an employee to make one application for flexible working in any 12 month period (from the date on which any previous application was made), subsequent applications may be considered where an employee's circumstances have changed within this time period.

## **3. Range of Flexible Working Policies**

National Services Scotland supports a wide range of flexible working options. These include, but are not limited to:

- Annualised Working Hours
- Flexi-Time
- Job Share
- Reduced Working Year
- Team Based Self Rostering
- Working at Home/Working from Home
- Zero Hours

A full list of current policies and further details can be found on HR Connect.

## **4. Submitting a Flexible Working Application Form**

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

There are two exceptions to this: the procedure for women returning from maternity leave who wish to job share is described in the NSS Job Share Policy, and the procedure for introducing annualised hours is described within the annualised hours policy.

The following procedure must be followed:

### **4.1 Initial Meeting**

The line manager will hold a meeting with the employee to discuss the application within 28 calendar days of the date on which the application is made. In appropriate circumstances, this period can be extended by mutual agreement.

### **4.2 Communication after Initial Meeting**

The line manager will inform the employee of their decision in writing within 7 calendar days of the date of the initial meeting.

### **4.3 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 complete the appropriate confirmations to Payroll. The line manager must also consider whether the employee's contract of employment requires to be amended to reflect the change to the working patterns. If so, this should progress with the support of HR Services.

#### **4.4 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. 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 line manager and the employee to seek advice on resolving the matter from an appropriate member of the HR 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.

### **5. Appeal Procedure**

An employee can appeal against the decision to refuse their application by submitting a Notice of Appeal form to the line manager within 14 calendar days of receiving the 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 employee should receive confirmation of receipt of the Notice of Appeal.

#### **5.1 Appeal Hearing**

A hearing will be held to discuss the appeal within 14 calendar days of the Notice of Appeal form being given to the line manager by the employee. 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 HR Team, neither of whom should have been involved in making the original decision.

N.B. A hearing will not be required where, within 14 calendar days of the Notice of Appeal form being received by the line manager, the matter has been satisfactorily resolved informally as outlined above.

#### **5.2 Notice of the Decision**

The employee will be informed, in writing, of the outcome of the appeal within 7 calendar 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 complete the appropriate notifications to Payroll. The line manager must also consider whether the employee's contract of employment requires to be amended to reflect the change in working pattern. If so, this should be progressed with the support of HR Services.

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

## **6. Extension of Time Limits**

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

## **7. Representation**

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

## **8. Service Reasons for Refusing a Request**

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

- Create an unacceptably 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 structural changes might make it impracticable for the organisation to agree to an employee's request for flexible working. An application may also be declined on this basis.

## **9. Withdrawal of Application**

NSS will treat an application as withdrawn if the employee has:

- Notified their line 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 NSS considers necessary to assess whether the employee's request to work flexibly should be granted.

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

## 10 Useful Information

Other policies/guidance that you may find useful include:

- NSS Flexi-time Guidelines
- NSS Team Based Self Rostering Guidance
- NSS Working at Home/Working from Home Policy
- NSS Job Share Policy
- NSS Reduced Working Year Policy
- NSS Voluntary Reduced Working Time Guidance
- NSS Compressed Working Hours Guidance
- NHS Scotland “Supporting the Work Life Balance” PIN Policy
- NHS Terms and Conditions of Service Handbook (Section 34)

The following websites may also be of interest:

- NHS Scotland Staff Governance – [www.staffgovernance.scot.nhs.uk](http://www.staffgovernance.scot.nhs.uk)
- Department for Business, Energy and Industrial Strategy - <https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy>
- ACAS – [www.acas.org.uk](http://www.acas.org.uk)

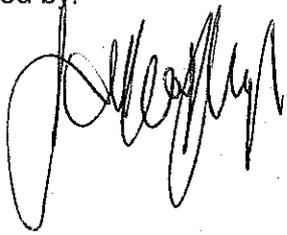
## 11. POLICY REVIEW

This policy will be reviewed two years from its effective date to ensure that arrangements put in place are appropriate to the operating requirements of National Services Scotland (NSS).

**Date Policy is effective:**

**Reviewed by:**

Agreed by:

A handwritten signature in black ink, appearing to be 'J. McNeill', written over the 'Agreed by:' label.

Date:

7.9.18