

THE STATE HOSPITALS BOARD FOR SCOTLAND

FLEXIBLE WORKING POLICY AND PROCEDURES

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Review Date	31 March 2022 <i>The 'Once for Scotland' Workforce Policies Programme is designed to review and transform existing workforce policies (previously known as Partnership Information Network (PIN) Policies). Policies within scope of the Once For Scotland have had their review date further extended to allow for the completion at national level and subsequent local implementation.</i>	
Responsible Officer (SMT)	HR Director	

The date for review detailed on the front of all State Hospital policies/ procedures/ guidance does not mean that the document becomes invalid from this date. The review date is advisory and the organisation reserves the right to review a policy/ procedure/ guidance at any time due to organisational/legal changes.

Staff are advised to always check that they are using the correct version of any policy/ procedure/ guidance rather than referring to locally held copies.

The most up to date version of all State Hospital policies/ procedures/ guidance can be found on the intranet: <http://intranet.tsh.scot.nhs.uk/Policies/Policy%20Docs/Forms/Category%20View.aspx>

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1. INTRODUCTION

The State Hospital (TSH), 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, which can describe a place of work, (e.g. 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.

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

2. ELIGIBILITY

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

2.1 Eligibility

- Have been continuously employed by TSH 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.

This does not preclude a 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.

2.2 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.

2.3 Application

An employee is limited to one application for flexible working in any 12 month period from the date on which any previous application was made.

2.4 Procedure

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

There are two exceptions to this: the procedure for women returning from maternity leave who wish to job share is described in the Maternity Leave Policy, and the procedure for introducing annualised hours is described within the Annualised Hours Policy.

2.4.1 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.

The manager will inform the employee of the decision in writing within 14 days of the date of the initial meeting.

2.4.2 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 Payroll Department if there are any changes to contracted hours or any changes that would affect the employee's pay. 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 progress with the support of HR.

2.4.3 Request Unsuccessful

An application for flexible working can only be declined for valid and objective service/operational reasons (see 2.7). The line manager must confirm the reasons in writing to the employee (Appendix 3). The communication must also include details of the formal appeal procedure.

Before progressing to appeal, it may be preferable for the manager and the employee to seek advice about resolving the matter from HR and / or 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.

2.4.4 Appeal Procedure

A member of staff can appeal against the decision to refuse their application by submitting a Notice of Appeal form (Appendix 4) to the Manager/HR within 14 days of receiving written confirmation that the application for flexible working has been declined. 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 (Appendix 5).

2.4.5 Appeal Hearing

A hearing will be held to discuss the appeal within 14 days of the Notice of Appeal Form reaching HR. 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 HR, neither of whom should have been involved in making the original decision.

N.B. A hearing will not be required where, within 14 days of the Notice of Appeal Form being received by HR, the matter has been satisfactorily resolved informally.

2.4.6 Notice of the Decision

The employee will be informed, in writing, of the outcome of the appeal within 14 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 process should then be followed as per 2.4.2.

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

2.5 Extension of Time Limits

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

2.6 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.

2.7 Service Reasons for Refusing a Request

An application can only be declined 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 reorganise 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.

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

2.9 Additional Information

As the new working pattern is voluntary, no enhancements to pay should arise as a result of moving to flexible working.

3. SELF ROSTERING

3.1 Definition

Team-based self-rostering is a 'bottom up' approach to scheduling work, giving people more control over the pattern of their working week. Parameters are set by agreeing in advance the levels of staff and skill mix required hour-by-hour throughout the working day. Staff put forward the times they would like to work and times they would like to protect away from work. This information is then used to compile shift patterns that match individual preferences as closely as possible, whilst maintaining agreed levels of cover at all times. There may be no requirement for staff to work their 'contracted hours' on a weekly or indeed monthly basis. Self-rostering programmes can enable staff to 'bank' hours worked over or under contractual hours. Hours can then be taken back or extra hours borrowed as dictated by the personal circumstances of staff. Self-rostering can lend itself to all staff groups within the NHS, and works best in a large mixed team where there is a variety of personal circumstances among staff, and different preferences about work patterns.

3.2 Implementation

Due to the impact self-rostering may have on service delivery within TSH, any proposed implementation of self-rostering would require agreement by the Senior Management Team.

Further information on self-rostering can be found in the Supporting the Work-Life Balance PIN Policy.

4. FORMAT

The State Hospitals Board recognise the need to ensure all stakeholders are supported to understand information about how services are delivered. Based on what is proportionate and reasonable, we can provide information / documents in alternative formats and are happy to discuss with you the most practical and cost effective format suitable for your needs. Some of the services we are able to access include interpretation, translation, large print, Braille, tape recorded material, sign language, use of plain English / images.

If you require information in another format, please contact the Involvement and Equality Lead on 01555 842072.

Key Stakeholders	Consulted (y/n)
Patients	N
Staff	Y
TSH Board	N
Carers	N

5. MONITORING, REVIEW AND EVALUATION

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

The State Hospitals Board for Scotland
APPLICATION FOR FLEXIBLE WORKING

Section A: Employee details PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS (using black ink)

First Name:.....

Surname.....

Pay No.: Band/Grade:.....

Contracted hrs:..... Contact Ext.:.....

Job Title:.....Work Location:.....

NHS Start Date:.....

Current Working Pattern (e.g. shiftworker, Monday – Friday worker).....

Home Address:.....

.....

Section B: Application

Describe your current working pattern including hours of work (e.g. shiftworker, Monday – Friday worker)

.....

Describe the working pattern you wish to work in future (including times)

.....

I would like this working pattern to start from

Impact of new work pattern
Please give details of how you think the requested working pattern will affect your department

.....

.....

Accommodating the new work pattern
How do you think this could be managed / resolved?

.....

.....

If you are applying for a statutory right to a flexible working pattern that is different from your current working pattern you should meet the following eligibility criteria:

- I have been continuously employed by this organisation 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; or
- I have made other applications to work flexibly during the past 12 months, but circumstances have changed which I have detailed above.

Signature

Date

Section C: Line Manager Authorisation

Date written application received.....

Date of letter sent to employee confirming receipt

Date of meeting to discuss application

Application granted Yes / No

If granted, consider whether payroll change form required Yes / No

If not granted, reason

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

Date of letter sent to employee advising of decision

Manager's signatureDate

Print Name

The State Hospital

The State Hospital
Carstairs
Lanark
ML11 8RP
Telephone 01555 840293
Fax 01555 840024



<Employee Name>

Date
Your Ref
Our Ref

Enquiries to
Direct Line
E-mail

Dear

Confirmation of Receipt of a Flexible Working Application Form

I confirm receipt of your completed Flexible Working Application Form dated _____.

I will arrange a meeting with you within 28 days of 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 accompanied at that meeting by a Trade Union/or Professional Organisation representative or a 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.

Yours sincerely,



The State Hospitals Board for Scotland
Carstairs, Lanark ML11 8RP

Chair Terry Currie
Chief Executive James Crichton

The State Hospital

The State Hospital
Carstairs
Lanark
ML11 8RP
Telephone 01555 840293
Fax 01555 840024



<Employee Name>

Date
Your Ref
Our Ref

Enquiries to
Direct Line
E-mail

Dear

Confirmation that Flexible Working Application has been Declined

Following our meeting on _____ at which we discussed your application for flexible working, I have now considered your application and regret that I am unable to accommodate your request for the following service/operational reason(s):

[insert one or more valid reasons as listed at section 2.7]

This (these) reason(s) apply in the circumstances because:

[The line manager should also explain here why any other work patterns that may have been discussed at the meeting were inappropriate.]

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 HR within 14 days of receiving this letter.

Receipt of your Appeal Form will be acknowledged in writing and a hearing to consider your appeal will be held within 14 days of receipt of your appeal form.

You will be notified of the outcome of your appeal within 14 days of the appeal hearing.

Yours sincerely,



The State Hospitals Board for Scotland
Carstairs, Lanark ML11 8RP

Chair Terry Currie
Chief Executive James Crichton

The State Hospitals Board for Scotland
FLEXIBLE WORKING APPEAL FORM

Section A: Employee details PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS (using black ink)

First Name:.....

Surname.....

Pay No.:

Contact Ext.:.....

Job Title:.....

Department:.....

Work Location:.....

Section B:

I wish to appeal against the decision not to allow my application for flexible working. I am appealing on the following grounds:

.....

.....

.....

.....

.....

SignatureDate

Print Name

The State Hospital

The State Hospital
Carstairs
Lanark
ML11 8RP
Telephone 01555 840293
Fax 01555 840024



<Employee Name>

Date
Your Ref
Our Ref

Enquiries to
Direct Line
E-mail

Dear

Confirmation of Appeal

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 14 days of the above date. In the meantime you may wish to consider whether you wish to be accompanied at that meeting by a Trade Union/or Professional Organisation representative or a 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,



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Carstairs, Lanark ML11 8RP

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