
Flexible Working Policy

Version:	1.0
Ratified by:	SMT
Date ratified:	July 2017
Name of originator /author (s):	People Services
Responsible Committee / individual:	People Services
Date issued:	July 2017
Review date:	July 2020
Target audience:	NHS Bury Clinical Commissioning Group Members and Staff
Impact Assessed:	July 2017

Further information regarding this document

Document name	Flexible Working Policy CCG.HRM.011.1.0
Category of Document in The Policy Schedule	HR
Author(s) Contact(s) for further information about this document	People Services
This document should be read in conjunction with	
Supersedes	Flexible Working Hours Scheme 02.11.1999
This document has been developed in consultation with	Local Partnership Forum
Published by	NHS Bury Clinical Commissioning Group 21 Silver Street Bury BL9 0EN
Copies of this document are available from	The Corporate Office People Matters

Version Control

Version History:		
Version Number	Reviewing Committee / Officer	Date
V0.4	Local Partnership Forum	2013
V0.5	Pensions Dept and HR	2017
V0.5	Lisa Featherstone's amendments	Feb 6th 2017
V0.6	Staff Comments	May 2017
V0.6	SMT Ratified	July 2017
V1.0	Published	July 2017

Flexible Working Policy

Contents

1.0	FLEXIBLE WORKING POLICY STATEMENT	4
2.0	PRINCIPLES OF FLEXIBLE WORKING	4
3.0	FLEXIBLE WORKING OPTIONS	5
4.0	FLEXIBLE WORKING PROCEDURE	9
5.0	APPEAL PROCEDURE	10
6.0	WORKING TIME POLICY STATEMENT	10
7.0	PRINCIPLES OF WORKING TIME DIRECTIVE	11
8.0	EQUALITY STATEMENT	12
9.0	MONITORING AND REVIEW	13
	Flexible Working Application Form	14
	Template Letter – Confirmation of Receipt of Application	16
	Template Letter – Change of Contract Procedure	17

1. FLEXIBLE WORKING POLICY STATEMENT

- 1.1 The CCG is committed to providing a range of flexible working options for employees in order to maintain a committed and skilled workforce, able to deliver high quality, cost effective services in an environment which maximises opportunities for employees to balance work and personal commitments.
- 1.2 This section sets out the flexible working arrangements that are available within the CCG for its direct employees.
- 1.3 The Working Time Policy Statement of the European Working Time Directive governs the flexibilities available to employees, ie unless they consent a worker should not be in excess of 48 hours per week average. Please refer to section 7 for more details.

2. PRINCIPLES OF FLEXIBLE WORKING

- 2.1 The CCG has an overriding responsibility to deliver timely services. It also has the right to seek ways of developing the capacity of its services, improving the capabilities of its employees and improving effectiveness.
- 2.2 The way working hours are arranged can help the CCG to manage its business and help employees balance their responsibilities at work and at home.
- 2.3 This policy allows any employee with 26 weeks of continuous employment, the right to apply for a change in their contracted hours of work but does not guarantee a change will be made.
- 2.4 All requests will be given full consideration and no reasonable request will be refused. However, in certain circumstances the needs of the business may not allow for the request to be granted. If a request is denied, a full and detailed reason for the refusal will be given in writing to the employee.
- 2.5 Managers will ensure that staff who request a flexible working arrangement are aware of the implications (if any) on their terms and conditions of employment e.g. salary, annual leave, pension. Managers should seek the assistance of a People Services Representative where necessary.
- 2.6 Where a request for a permanent change to an employee's working arrangements is requested the organisation reserves the right to impose a trial period, the length of which will be at the line managers discretion but will normally be between 3 and 6 months, to establish whether or not the new working arrangements meet service needs.
- 2.7 Employees are able to apply no more than once per year.
- 2.8 For details of arrangements covering emergency time off for the care of dependants, see the Leave of Absence Policy.

2.9 People Services will provide advice and support to Line Managers where requested. Training will be provided in the implementation and application of this policy where a training need is identified and training commissioned.

3. FLEXIBLE WORKING OPTIONS

3.1 As far as practicable the CCG may be able to offer flexible working arrangements such as: (*reference: NHS Terms and Conditions of Service section 34*)

- **Part-Time Working**

3.2 This is where an employee is contracted to a number of hours that are less than the normal hours of work of a comparable full-time employee.

3.3 Salary and annual leave are likely to be affected by changing to Part-Time Working.

- **Compressed Hours**

3.4 This is where an employee compresses the number of days they work their contracted hours.

3.5 Unless working hours are changed, the salary is not affected by working condensed hours. However, annual leave entitlement must be re-calculated in hours from the date compressed hours become effective.

- **Job Share**

3.6 This is where two people share the duties and responsibilities of one full-time post in a partnership arrangement.

3.7 The salary and terms and conditions of service are shared on a pro-rata basis according to the hours worked by the job sharers. The incremental pay point of each job sharer, however, will be determined on an individual basis according to their skill level and knowledge.

3.8 Hours and the pattern of the working week will be agreed between the job sharing post holders and their manager and will be varied only by the agreement of all parties. The sharing of duties and responsibilities must be agreed by the job share partners prior to confirming the appointments. Where continuity is determined as an essential requirement of the job, such arrangements must be achieved within the normal established total hours.

3.9 A post may be shared by two people on a split-day, split week or alternate week basis, giving each employee a pro-rata share of the full-time hours of the post. Job sharers who work alternate weeks maintain their continuity of employment and this will be stated in the Contract of Employment.

3.10 Job Sharing partners will have an individual statement of Terms and Conditions covering salary, annual leave, bank holidays, sick pay entitlements, cover arrangements and the procedures which apply when one partner leaves.

- 3.11 The hours agreed between job sharers should not be changed except with the express agreement of both manager and the job sharers.
- 3.12 In exceptional circumstances, where it is necessary for the job share unit to exceed the contracted hours, time off in lieu should, whenever possible, be arranged. If it is not possible, additional hours may be paid with the prior agreement of the line manager and budget holder. Overtime will only be payable if an individual job sharer works more than the full time hours for the CCG.
- 3.13 If one job share partner leaves, the vacancy shall not be advertised until the remaining sharer has been offered the post on a full-time basis.
- 3.14 If a job share appointment to a `part' vacancy cannot be made within 3 months from the day of the first advertisement, the post will revert to full-time and the job share cannot be progressed. Under these circumstances, full consultation will take place with the job sharer. All attempts will be made to redeploy the remaining job sharer into another suitable post.
- **Term-Time Working**
- 3.15 This is where there is agreement to allow an employee to take extended unpaid leave to coincide with the school holidays.
- 3.16 The salary and annual leave will be affected by this change.
- **Flexi-Time**
- 3.17 Flexi-Time allows employees to vary their actual working hours. This means that employees can vary their start and finish times to better fit their domestic responsibilities, travel arrangements or for work purposes. Further information regarding the operation of Flexi-Time can be found in the Flexi-Time Scheme.
- **Annual Hours or Term-Time Only Working**
- 3.18 This is where an employee works a specific number of hours each year, with the hours being unevenly distributed throughout the year or where people work during the school term but not during school holidays
- 3.19 Employees work an allocated number of hours per year rather than per week. The number of hours worked in any one week can fluctuate according to individual circumstances and the workflow demands of the service or modifying working patterns to suit personal circumstances with the possibility of having blocks of time off in the quieter periods of the year. This option may be favourable for those employees who are looking to concentrate their working hours during term times.
- 3.20 A minimum number of hours must be worked in order to maintain professional registration and competencies, where applicable.
- 3.21 The allocation of hours worked each week or month becomes a matter for agreement between the employee and manager. It is the responsibility of the individual to make themselves available for work and to understand that they may be required to work in another location if their line manager cannot accommodate the hours requested.

3.22 Salary payments will be made evenly throughout the year, even though hours of work may vary. However, the salary may be affected if the average hours per week changes. Annual leave may also be affected.

- **Home Working**

3.23 This is where people work from home for all or part of their hours with a computer or telecommunication link to their organisation.

3.24 Home working may be offered to permanent employees or employees may be recruited specifically to work at home.

3.25 Permanent home working should be distinguished from employees who may wish to take advantage of the option to work from home in order to complete large projects or complete work within strict timescales. In these circumstances, prior authorisation from management must be sought.

3.26 When a manager authorises home working they must ensure that the risks associated with this decision have been assessed and managed and make reference to the CCG's Health and Safety policies especially, DSE (Display Screen Equipment) Guidelines, Lone Working and Health and Safety.

- **Voluntary reduced working time**

3.27 This is where people work reduced hours by agreement at a reduced salary for a temporary period.

3.28 The salary and annual leave will be affected throughout the duration of the temporary reduction in hours.

- **Un-Fixed work patterns**

3.29 This is where, by agreement, days off can be irregular to suit both the employee and organisation's needs.

3.30 Unless working hours are changed, the salary is not affected by working an un-fixed working pattern. However, if working hours are reduced to provide days off, salary and annual leave are affected.

- **Retirement**

3.31 Within the rules of the NHS Pension Scheme there are a range of alternatives available for employees as they approach retirement.

3.32 Employees interested in retirement should seek further advice from the payroll department. Alternatively the NHS Pension Helpline may be contacted on **0300 3301 346** or www.nhsbsa.nhs.uk/pensions to seek advice regarding their pension.

3.33 When considering the retirement options, management should balance the needs of the employee with the needs of the service. Retirement options are not therefore an automatic right. Likewise, there may also be occasions where the CCG in the

interest of the service may look to create opportunities for interested employees to pursue flexible options.

3.34 The options available are as follows:

- **Retire and Return**

3.34.1 This applies to employees in the 1995 pension scheme only.

3.34.2 A member retiring after their normal retirement age (60) or before if claiming an actuarially reduced pension must leave a minimum break of 24 hours before their last working day (includes paid annual leave) and returning to a new NHS employment. They can only work up to 16 hours per week for the first calendar month after their retirement date. After that first month has elapsed the amount they can earn will have no effect on their pension.

3.34.3 If an employee retires before the age of 60 and has Mental Health Officer or Special Class status they have an earnings margin from date of retirement to age 60.

3.34.4 Between the age of 55 and 60 their NHS Pension, plus their new income must not exceed their pre-retirement pay, otherwise the pension will be abated accordingly.

3.34.5 There is no earnings margin for any employee without special class or Mental Health Officer status who retires early and is in the 1995 section.

- **Flexible Retirement**

3.34.6 Flexible Retirement is only available to employees in the 2008 & 2015 schemes.

3.34.7 The employee must take a minimum of a 24 hour break; however, there are no restrictions to hours worked upon return.

3.34.8 Depending on which scheme employees are in, when they formally retire from their job(s) in the NHS, they may not be able to make any further pension contributions.

3.34.9 1995 Section: Pensionable re-employment is not permitted except for members who retired on ill health grounds and return before reaching the age of 50. These members may join the 2015 scheme.

3.34.10 A further exception applies to members who retired between 1st April 2008 and 30 September 2009 prior to the 'Choice' exercise. These members may after a waiting period, join the 2008 section if they satisfy the 2008 Section 'Protection' conditions.

3.34.11 2008 Section: Pensionable re-employment is permitted, if the 2008 Section 'Protection' conditions are satisfied, up to the maximum membership limits of of

age 75 and 45 years' calendar length membership. If the protection conditions are not satisfied the member may join the 2015 scheme.

3.34.12 2015 Scheme: Pensionable reemployment is permitted up to age 75 without any limits on years of membership.

3.34.13 Staff whose application for returning to work after retirement is successful, will be issued with a new contract of employment. The employee's continuous service date for the purposes of sick pay and annual leave will not change however the employee's continuous service date for the purposes of the Employment Rights Act (1996), which is the legislation protecting worker rights, will be the new NHS start date (the date the employee returned to work after retirement).

4. FLEXIBLE WORKING PROCEDURE

4.1 An employee has the right to be accompanied by their trade union representative or a work colleague at every stage of this procedure.

4.2 A request to change the contracted hours of work must be made by the employee in writing, or using the attached form (appendix 1), to their line manager and must:-

- be dated and submitted allowing 6 working weeks between the submission of the request and the proposed start date for the application to be considered, to accommodate payroll cut off dates;
- state whether a previous application has been made and, if so, the date on which it was made;
- include the reason for the request;
- include details of the proposed change, and proposed start date, and an explanation of the employee's view of the effect on the CCG's business and how this may be dealt with and;
- relate to hours, times or place of work;

4.3 The line manager will acknowledge, in writing, the request and will arrange a meeting with the employee to discuss the application, to be held no later than 28 days after the date of application.

4.4 A decision must be made within 14 days of the meeting and the employee notified in writing. The notification will either:-

- accept the request and establish a start date and any other action or
- confirm a compromise agreed at the meeting; or
- reject the request, detailing all of the facts and demonstrating the business rationale behind the decision and;
- Include details of the appeals process

4.5 Should the application be approved, the change will be made on a permanent basis, unless all parties have agreed at the outset that the arrangement is time limited. A trial period may be agreed. The line manager is responsible for notifying People Services of any change that affects an employees pay by completing the People Services Employee Change form.

- 4.6 Applications for flexible working arrangements will be refused only for one or more of the following reasons:
- the burden of additional costs;
 - detrimental effect on ability to meet customer demand;
 - inability to reorganise work among existing staff;
 - inability to recruit additional staff;
 - detrimental impact on quality;
 - detrimental impact on performance;
 - insufficiency of work during the periods the employee proposes to work; and
 - planned structural changes.
- 4.7 If the proposal is refused, the employee will be allowed another 14 days in which to appeal.

5. APPEAL PROCEDURE

- 5.1 The employee must submit their appeal in writing within 14 days of them being informed of the decision
- 5.2 The appeal will be acknowledged in writing and an appeal meeting arranged
- 5.3 The appeal meeting must take place within 14 days of the notice of the appeal and will be heard by the line manager of the manager who made the original decision, or someone at an equivalent level.
- 5.4 The employee has the right to be accompanied by their trade union representative or a work colleague at this meeting
- 5.5 The decision on the appeal must be given within a further 14 days and is final.

6. WORKING TIME POLICY STATEMENT

- 6.1 Whatever working pattern an employee is contracted to fulfil, the CCG is committed to the health and safety of its employees and acknowledges its obligations within Working Time Regulations. The organisation strives to provide a safe working environment and ensure the safety and wellbeing of all its workers. The organisation seeks to ensure that workers do not exceed reasonable working hours to provide for a satisfactory balance between work and personal life. The organisation is also committed to ensuring that workers' health is not compromised by the workplace.
- 6.2 Workers' managers have a responsibility to ensure that working hours are kept within reasonable limits and will monitor working hours for this purpose. Workers themselves also have a duty to ensure that they are not working excessive hours and inform their manager directly if they consider that they may be doing so.
- 6.3 The European Working Time Regulations set down entitlements of employees to maximum working hours, rest periods, rest breaks whilst at work, annual leave and working arrangements for night workers.

7. PRINCIPLES OF WORKING TIME DIRECTIVE

- 7.1 The Working Time Policy Statement applies to all CCG employees and any agency or contract staff whilst they are working for the CCG.
- 7.2 Unless they consent, a worker should not be in excess of 48 hours per week average. The organisation will take all reasonable steps to comply with this limit. Should the employee wish to opt out they should complete the required form from People Services and return it to their Line manager.
- 7.3 Employees working for more than one employer or who also undertake work through self – employment should still not exceed the 48- hour limit with regards to their total average weekly working time. Secondary employment includes working on the bank or through an agency. Any employee wishing to accept an offer from another employer should first have permission from the CCG and should have declared this additional role in their declaration of interest.
- 7.4 The CCG would not normally commission Night Workers, but should it occur, Night Workers should not exceed an average of 8 hours work in every 24 hour period. A night worker is defined as someone who normally works at least 3 hours between 11.00pm – 6.00am
- 7.5 The employee is entitled to the following rest periods and breaks:
- 7.5.1 Rest period of 11 consecutive hours in each 24 hour period.
- 7.5.2 Employees are also entitled to an uninterrupted rest period of at least 24 hours in each seven-day period, 48 hours in each 14-day period or two uninterrupted rest periods of at least 24 hours in each 14-day period. The worker has a duty to inform his/her manager as soon as possible if he/she is or may be at risk of being unable to take these required rest breaks.
- 7.5.3 The organisation expects that employees will take their rest break between 6.00pm and 8.00am daily and between 5.00pm on Friday and 9.00am on Monday.
- 7.5.4 Employees have the right to a minimum unpaid rest break of 20 minutes after working 6 hours. If operational requirements mean that the employee is unable to take these breaks at that time, they will be entitled to compensatory rest to be agreed by their line manager. Breaks should not be taken at the end of the day, or stored up and taken on a cumulative basis at a later date.
- 7.6 An employee's annual leave entitlement is specified in the Agenda for Change Terms and Conditions of Service Handbook. Part time employees are entitled to the same amount of holiday and bank holiday entitlement pro rata.
- 7.7 Young workers are those above school leaving age, but under the age of 18. The organisation does not permit young people to work in excess of 8 hours per day and they are subject to a maximum working week of 40 hours. A young worker must

have a rest break of at least 30 minutes if the working day lasts longer than 4.5 hours.

- 7.8 An employee is considered by the organisation to be "working" when he/she is carrying out activities on behalf of the organisation. This may include training, business travel and "on-call" time. It does not include travel from the worker's home to his/her place of work, rest breaks, travel time outside normal working time or non-job related training.

The organisation defines "on-call" time as time when an employee is required to be available at his/her place of work and available for work throughout that period. If the employee is not at his/her place of work, this does not constitute being "on call".

Working time will include time where a worker is required to be at the organisation's premises, but is free to rest while waiting for work to be available. It will also include time where a worker is required to travel from site to site for meetings, to attend training or to perform his/her functions at different locations.

However, working time will not include travel to and from an employee's home (or the equivalent if he/she is working away from home at the time), or time when an employee (despite being on the organisation's premises or at his/her place of work) is not available to perform functions for the organisation or is pursuing outside interests during that time.

- 7.9 If an employee considers that he/she has been unfairly treated with regard to his/her working hours (for example being required to work excessive hours or being unreasonably refused overtime or (temporary) flexible working arrangements), he/she is requested to raise this informally with his/her manager. If the worker's complaint relates to his/her manager, he/she is requested to raise it with a more senior manager. If a worker is not satisfied following this route, he/she has the right to raise a grievance in accordance with the CCG's Grievance procedure.

8. EQUALITY

- 8.1 In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic. An equality analysis has been carried out on this policy and can be requested from People Services.

9. MONITORING & REVIEW

- 9.1 The policy and procedure will be reviewed periodically by People Services in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

- 9.2 The implementation of this policy will be reviewed periodically by the Deputy Director of Business Delivery and People Services in conjunction with operational managers and Union Representatives. Where review is necessary due to legislative change this will happen immediately.

I think the effect on Organisation and my colleagues can be dealt with as follows:

Signed: _____ Date: _____

Confirmation of receipt of application (*Line manager to complete and return to employee*)

Dear

I confirm that I received your request to change your work pattern on _____.

I will be arranging a meeting to discuss your application within 28 days. In the meantime, you may wish to consider whether you would like a colleague to accompany you to the meeting.

Yours Sincerely

Line Manager

Confirmation of Change to Contract (line manager to complete and return to employee)

Dear

Following receipt of your application and our meeting on (insert date) I have considered your request for a new flexible working pattern.

*I am pleased to confirm that I am able to accommodate your application.

*I am unable to accommodate your original request. However, I am able to offer the alternative pattern, which we have discussed and you agreed would be suitable to you.

*Your new working pattern will be as follows:

*The date of commencement of your new working arrangements will be:

Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment.

***Delete as appropriate**

If you have any questions regarding the information provided on this letter please contact me to discuss them as soon as possible.

Yours sincerely

Line Manager