

**WORKFORCE & ORGANISATION DEVELOPMENT POLICY &  
PROCEDURE**

**FLEXIBLE WORKING**

**DOCUMENT REF: PHRLFLEXI  
(Version No. 2.0)**

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Approved by (committee, group, manager)	Integrated Governance Committee Helen Porter – Director of Nursing & Quality
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	Authorised by	Date Authorised	Comments
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3.1.14	Draft 1	Helen Carroll, HR Business Advisor	Child & Families Bill 2013. Right to request flexible working extended to all employees with effect from 6 <sup>th</sup> April 2014. On hold.
3.3.14	Draft 2	Helen Carroll, HR Business Advisor	Children & Families Act 2014. Right to request flexible working extended to all employees with effect from 30 <sup>th</sup> June 2014.
1.4.14	Draft 3	Helen Carroll, HR Business Advisor	Additional information in line with ACAS Code of Practice included.
June 2014	1.0	Helen Carroll, HR Business Advisor	First version
February 2016	2.0	Catrin Wilde, HR Business Partner	<p>Add Trust Values &amp; Behaviours, expand on section 7.1 Eligibility, 7.5 includes additional guidance regarding what needs to be taken into account in considering flexible working requests, include section 7.6 Trial periods, 7.9 Contractual implications, 7.10 Revoking flexible working requests, Appendix 1 and amended forms in Appendix 2.</p> <p>April 2016: Following IGC approval, all above changes were made to correct controlled version of policy from version 1.0 to 2.0. Helen Porter approved on 31<sup>st</sup> May 2016.</p>

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## 1.0 Introduction

The Trust recognises that a better work-life balance can improve employee motivation, performance and productivity, and reduce stress. Therefore the Trust wants to support its employees to achieve a better balance between work and their other priorities, such as caring responsibilities, leisure activities, further learning and other interests. The Trust is committed to agreeing flexible working arrangements, provided that the needs and objectives of both the organisation and the employee can be met.

The Trust also recognises the need to assist staff in achieving a work-life balance through offering employment packages which embrace the principles of flexible working.

The Trust’s service to patients must remain paramount. However managers will not unreasonably refuse requests from staff to consider different ways of working and in the event that a request cannot be granted, then a reasoned response will always be given. The Trust expects that managers will work in partnership with staff, to explore an appropriate range of flexible working in their service area. The overall context will be the need to deliver a quality service that enables staff to achieve a work-life balance.

### 1.1 Trust Mission, Vision and Values and Behaviours

Our vision sets out our ambition for the future, to guide us and inspire us in all that we do:-

***‘To provide the best cancer care to the people we serve’***

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Our mission sets out why we exist and the contribution our organisation makes to achieve our vision:-

***'To improve health and wellbeing through compassionate, safe and effective cancer care'.***

And our values and behaviours set the standards and expectations that we expect all our staff to adhere to enable our mission and vision to be achieved for the benefit of each other and the patients we serve.

- Putting People First
- Passionate about what we do
- Achieving Excellence
- Looking to our future
- Always improving our care

## **2.0 Aim**

The aim of this document is to outline the responsibilities of managers and employees in relation to flexible working requests and to ensure that a fair and equitable process is in place for requesting working arrangements.

## **3.0 Scope**

This policy applies to all Trust staff with 26 weeks' continuous service at the date the application is made. Flexible working is open to consideration provided the manager and individual member of staff can demonstrate that there are advantages or at least no detriment to the Trust's services. The implementation of any of the options remains at the discretion of the line manager and the needs of the service will always take precedence.

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## 4.0 Responsibilities

### 4.1 Chief Executive

The Chief Executive has an overarching responsibility for ensuring the content of this policy is applied consistently and fairly across the organisation.

### 4.2 Director of HR & OD

The Director of HR& OD is the named officer responsible for ensuring the content of this policy is applied consistently and fairly across the organisation.

### 4.3 Employees

Employees are responsible for:

- ensuring they are familiar with the flexible working policy and process
- thinking through the implications of requesting flexible working arrangements for themselves, their colleagues and the business
- considering how potential negative effects can be overcome
- considering how flexible they can be with their request: is there a compromise that could help protect the service?

### 4.4 Managers

Managers have responsibility for:

- ensuring they are familiar with the flexible working policy and process
- ensuring their team are aware of flexible working opportunities
- considering requests for flexible working reasonably
- ensuring the needs of the business are protected and to ensure that the needs of the service take priority.
- looking for opportunities for the service to benefit from individuals working more flexibly
- providing feedback and justification when they are currently unable to accommodate a request for flexible working

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## 5.0 Laws and Regulations

Managers must be mindful of the statutory requirements laid down in legislation, including the :

- Children and Families Act 2014
- Work and Families Act 2006
- Working Time Regulations 1998
- Employment Act 2002
- Employment Rights Act 1996
- The Flexible Working (Procedural Requirements) Regulations 2002
- (SI 2002/3207)
- Part-time Work Regulations 2000
- Equality Act 2010

## 6.0 Definitions

See 7.2

## 7.0 Procedure

The Trust supports managers and employees working in partnership to allow any member of staff to request flexible working provided they have the necessary service. (Employees who have been employed for less than 26 weeks do not have a statutory right to request flexible working.)

On receiving a request, managers should arrange to discuss the request with the employee as soon as possible. If there is likely to be a delay in discussing the request, it is good practice to inform the employee. It is important to deal with requests in a timely manner as the law requires the consideration process must be completed within three months of first receiving the request, and to notify the employee of its decision. This includes any appeal. If for some reason, the request cannot be dealt with within three months, then an employer can extend this time limit, provided the employee agrees to the extension.

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For flexible working arrangements to operate successfully, an accessible and transparent process for managing flexible working requests is appropriate.

As part of the Trust's approach to recruitment and retention, flexible working will also recognise that during the working life of an employee their preferred work-life balance can change significantly.

## 7.1 Eligibility

Any employee with at least 26 weeks of employment service has a statutory right to request flexible working. An eligible employee is entitled to submit one flexible working request in a twelve month period (an employee is entitled to additional requests if they relate to a statutory entitlement e.g. the Equality Act 2010 right to request reasonable adjustments).

Prior to June 2014 the right only applied to the parents of children under 17 or 18 in the case of parents of disabled children or to those caring for an adult. Now any eligible employee can apply to work flexibly for any reason.

## 7.2 Types of flexible working

Below are some common types of flexible working; however flexible working is not limited to these types and could combine several different styles of working. For example an employee could be a part time worker, working flexitime, with some time spent working at home.

### Part time working

Work is considered part-time when employees are contracted to work for anything less than full-time hours.

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## **Flexitime**

Flexitime allows the employee to vary their hours, although there is a "core" time where they have to work, and an expected number of working hours a day. For further details of the Trust's flexitime scheme and participating departments see the Flexitime Regulations Policy.

## **Job – sharing**

Job - sharing is where a job is split, usually between 2 people. For example one person might do mornings and another afternoons or one could do Mondays and Tuesdays and the other Wednesdays, Thursdays and Fridays. Sometimes there is a period when both job - sharers are in the office to liaise and handover.

## **Term - Time working**

This allows the employee to work full or part time during the school term only while taking unpaid leave in the holidays. Pay will be averaged out over the year. Alternatively the employee may remain on a permanent contract but can take unpaid leave during school holidays. When considering term-time working the employee and line manager need to assess whether the work can be rescheduled to term time and/or if business activity allows for extended periods of leave. It is expected that term-time working arrangements will cease when the child finishes senior school.

**Annualised hours:** The period within which full-time employees must work is defined over a whole year. This may be suitable where there is a higher requirement for staff at certain times of the year.

**Compressed hours** - allows staff to work their total number of agreed hours over a shorter period. Through starting early and/or finishing late, people can build up additional hours, e.g. they might work their full weekly hours over four days, rather than five.

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**Flexible rostering** - this allows workers to nominate the shifts they would like to work. Employers compile shift patterns that match workers' individual preferences, whilst ensuring all required shifts are covered. Usually, each member of staff is required to work a set number of hours within a given time frame.

**Staggered hours** - where workers in the same workplace have different start, finish and break times, allowing cover over longer hours.

**Shift-work** - a pattern of work in which one person replaces another on the same job within a 24-hour period. This scheme enables workplaces to function for longer hours and can increase productivity.

**Job Share** - the division of duties and responsibilities for a full-time post between two people.

**Longer working days/compressed hours** – This pattern of working provides for longer working days, thus reducing the number of day's attendance in a working week. Particular care should be taken when designing such work patterns to ensure that working longer days do not jeopardise patient safety or the health and safety of the individual. Adherence to the minimum breaks and maximum hours working within the Working Time Regulations 1998 must be followed. It should be noted that in the interests of health and safety, the Trust will not allow any shift to exceed 12 hours (excluding breaks).

**Home working:** Homeworking is the use of the home, supported by technology, for the remote performance of some, or all, of an employee's normal work. It does not necessarily involve working only at home; it can be combined with part-time attendance at the work place. It can also be defined as the use of home as a work base for jobs which require regular travelling. It should be differentiated from occasionally working at home for the completion of specific one off tasks

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when the employee is normally based at a particular office or site. Please refer to the Trust's Homeworking Policy and Procedure for further detail.

### 7.3 Application Process

Any employee who wishes to request flexible working should apply using the flexible working application form. In doing so the employee needs to consider what the impact will be on the service and how, in their opinion, such effect might be dealt with.

Managers must be clear that each request is approached in a fair and objective manner, balancing the individual needs against service/business needs and should consider previous requests to ensure that they are continuing to be consistent in their approach.

The Trust has a duty to consider all applications and establish whether the desired work pattern can be accommodated within the needs of the business, weighing these against any adverse service impact of implementing the changes. The Trust is under no statutory obligation to grant a request to work flexibly if it cannot be accommodated by the service on the grounds listed below in section 7.5.

Requests should be considered in the order they are received. Having considered and approved the first request the manager should remember that the service context will have changed and can be taken into account when considering the second request. Should a manager receive more than one request, they are not required by the law to make value judgements about the most deserving request. A manager should consider each case on its merits looking at the business case and the possible impact of refusing a request. The manager may want to have a discussion with the employees to see if there is any room for adjustment or compromise before coming to a decision. Should this not be possible an employer might be in a position to seek agreement from the

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employees concerned to consider some form of random selection to decide if they are unable to distinguish between all the requests.

#### **7.4 How often can an application be made?**

An employee can only make one statutory request for a change to their contractual terms and conditions of employment to work flexibly in any 12 month period provided they have worked for 26 weeks continuously at the date of the application is made. In most circumstances therefore employees can only make one application every 12 months under the policy. However the manager may agree to reconsider or accept a new application if appropriate eg where the employee falls under the Equality Act and changes could constitute reasonable adjustment.

The Trust will make the decision on whether or not a request can be granted on business/service grounds rather than the employee's personal circumstances. Managers should, however, bear in mind their obligations under other legislation, such as equality legislation and consult with HR for advice in such cases.

#### **7.5 Considering an application for flexible working**

On receiving a request, the manager should arrange to discuss it with the employee as soon as possible. It is important to deal with a request in a timely manner as the law requires the consideration process to be completed within three months of first receiving the request, including any appeal. If the request cannot be dealt within three months then an employer can extend this time limit, provided the employee agrees to the extension. A discussion may not always be needed, such as when a manager is happy to accept a request, but it may be helpful to discuss a request with an employee to ensure that the proposal put forward is the best solution for both the manager and employee. The employee might request that they be accompanied by a work colleague or a trade union representative and the manager should try to accommodate such requests.

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The meeting with the employee will provide an opportunity for the employer to explore with the employee exactly what changes they are seeking and how these might be accommodated. The manager should consider the request carefully looking at the benefits of the requested change in working conditions for the employee and the organisation and weighing these against any adverse impact of implementing the change. Employers are under no statutory obligation to grant a request to work flexibly if it cannot be accommodated by the service on the grounds listed below.

The Trust is committed to providing a range of appropriate working patterns. However employees and managers need to be realistic and to recognise that not all flexible working options will be appropriate for all roles. A manager should also consider the proposal under the Working Time Regulations. The working time regulations determine the maximum weekly working time plus daily and weekly rest periods. Any flexible working patterns agreed by the organisation must comply with the Working Time Regulations (1998). The main provisions of these are:

- A maximum (average) working week of 48 hours
- 11 consecutive hours rest per day
- 24 hours uninterrupted rest per week (or 48 per fortnight)
- 20 minute rest break when working over 6 hours

Where a flexible working arrangement is proposed the Trust will need to take into account a number of criteria including (but not limited to) the following:

- the costs associated with the proposed arrangement
- the effect of the proposed arrangement on other staff
- the need for, and effect on, supervision
- the existing structure of the department/clinical area
- the availability of staff resources
- details of the tasks specific to the role

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- the workload of the role
- whether it is a request for a reasonable adjustment related to a disability
- health and safety issues

The manager should communicate the decision to the employee in writing and complete a change form if the change affects pay (eg due to a reduction of hours).

### **7.6 Trial periods**

All managers who agree to flexible working should do so on a trial basis initially. It is recommended that the trial period should be for 3 to 6 months. At the end of this period the manager should meet with the individual to discuss the arrangement and discuss how any problems might be resolved which might result in a change to the initial agreement. The outcome of the meeting should be confirmed in writing (this can be done using Appendix 3 or by letter containing this information).

It is also good practice to set review points when the employee and manager can jointly discuss how the arrangements are working and make any necessary adjustments. This should be done as a minimum on an annual basis. Should significant changes be required then a formal meeting should be convened and the employee should be given the opportunity to be represented by a work colleague or trade union representative.

### **7.7 Refusal to Allow Flexible Working**

A request for flexible working must be considered objectively and can only be refused on one or more of the permitted business reasons set out in legislation. ACAS (The right to request flexible working: an ACAS guide) offers examples of things to take into consideration.

These are:

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- Burden of additional costs
- Detrimental effect on ability to meet service 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 propose to work
- Planned structural changes.

As well as stating one of the permitted reasons, a manager should explain how the reason applies to the circumstances. If a manager is unable to approve a request in an environment where a number of other employees are already working flexibly because any further flexible working arrangements will impact adversely upon the service, it would be good practice to consider calling for volunteers from existing flexible working employees to change their contracts back to other arrangements thereby creating capacity for granting new requests to work flexibly. Any refusal should be confirmed in writing via Appendix 3 or via a letter containing this information.

### **7.8 Right of appeal**

An employee can appeal against the decision. Please refer to the Trust's Appeals Policy for further guidance.

### **7.9 Contractual implications**

Before applying for a change to their working patterns, employees should consider the effect on their pay, pension and other terms and conditions (such as annual leave and reckonable service for the purposes of calculating severance and redundancy entitlement). Employees should also be aware that once a trial period has passed, the new working arrangements is likely to involve a permanent change in contract and there will be no automatic right to return to previous hours/working patterns.

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## 7.10 Revoking flexible working requests

There could come a time when a flexible working arrangement(s) becomes problematic in the running of a service. This might happen for a number of reasons such as a number of different working patterns, changes to services through extended hours, government directives etc. In such cases the manager will need to meet with the employee(s) and discuss:

- what's changed within the service that now requires either full time attendance or a change to current flexible working arrangements;
- why it affects this particular employee/ group of employees

The manager having sought advice from HR Business Support will arrange a meeting with the employee and explain the reasons why the issue has arisen and what potential solutions might be available. It would be reasonable to allow a member of staff to have time to consider the information in order to give due consideration to lifestyle changes/caring arrangements etc that they might need to make in order to meet any suggested proposals. The Trust will always aim to work with individuals to try to address this informally in the first instance and reach an agreement that will be acceptable to both parties.

In order to achieve this, a further meeting involving HR and a workplace colleague/trade union representative might be required if an immediate solution is not evident to the employee and manager. A new agreement would be confirmed in writing along with a suitable start date which might vary according to service demands and/or the time required by the employee to change personal arrangements.

However in the situation where there are sound business grounds for requesting a revocation or change to a flexible working arrangement and an employee refuses to accept any changes and no compromise can be reached, the Trust

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would be in a position where it has no alternative but to serve notice to terminate the employee's contract and re-engage them on the new terms and conditions of employment. Every effort will be made however, to avoid reaching this situation.

## 8.0 Training

There are no specific training requirements in relation to this policy

## 9.0 Audit

This policy will be audited by the Trust's HR & OD department at the next review date. Any actions or recommendations will be incorporated into the revised policy.

## 10.0 References

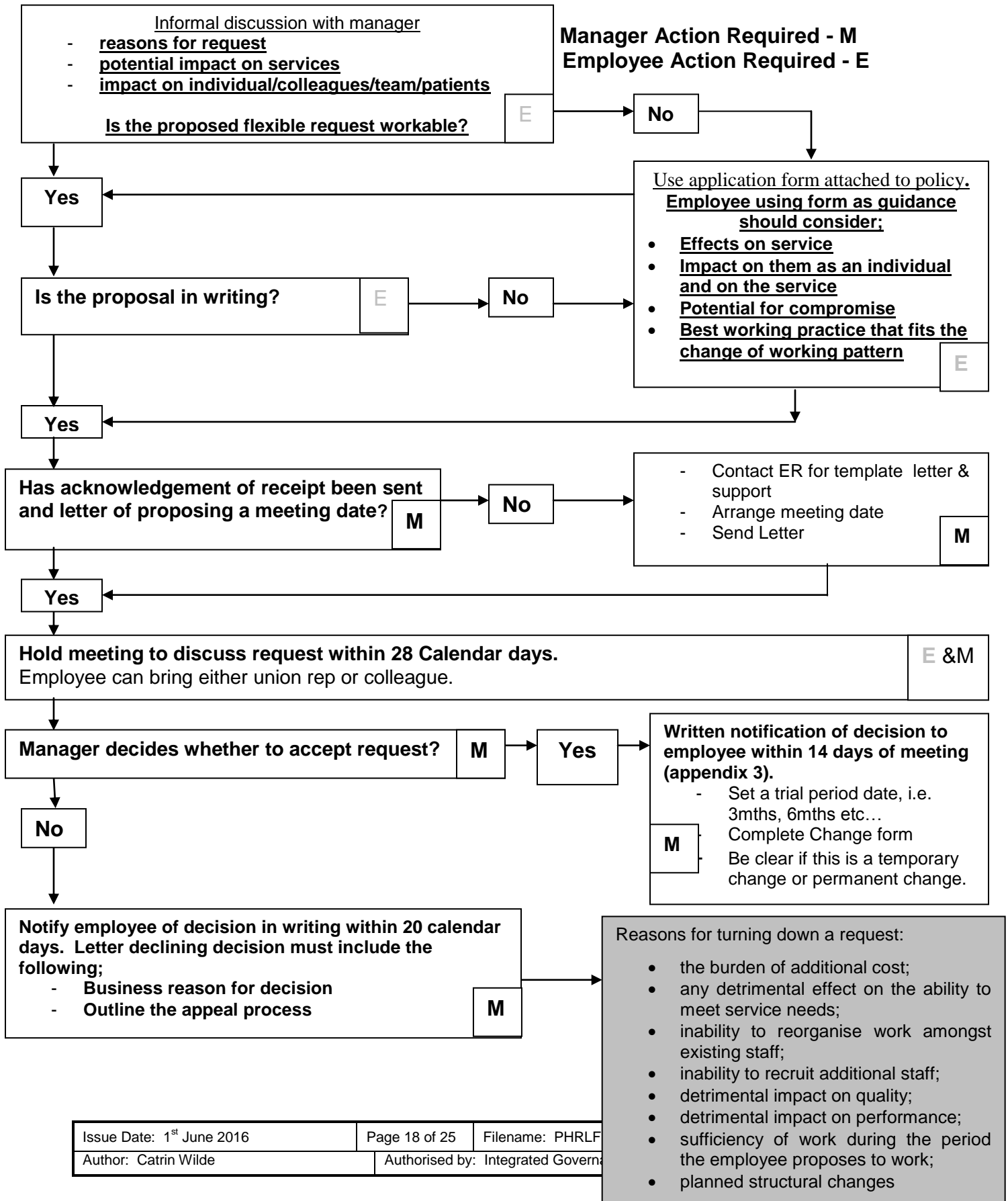
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## 11.0 Appendix

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## Appendix 1 - Procedure for requests to work flexibly



## Appendix 2 - Flexible Working Application Form

1. Personal Details	
Name	
Department/Ward	
Manager	
Job Title	

2. Describe your current working patters (days/hours/times worked)

3. Describe the working pattern you would like to work in future (days/hours/times worked)

**4. Impact of the new working pattern: I think this change in my working pattern will affect my service/department/work and colleagues as follows:**

--

**5. Accommodating the new working pattern: If possible, detail the effect on the department/service and colleagues and how they can be dealt with**

--

**Previous applications:**

Have you made a previous application for flexible working to the Trust?

Yes

No

If yes, when?

**Signed:**

**Date:**

--

<b>Manager's Confirmation of Receipt (to be completed and returned to employee)</b>	
I confirm that I received your request to change your work pattern on (date)	
I shall be arranging a meeting to discuss your application within <b>28 days</b> following this date. In the meantime you may want to consider asking a work colleague or trade union representative to accompany you.	
<b>Signed</b>	
<b>Print</b>	
<b>Date</b>	

### Appendix 3 - Flexible Working Request Acceptance Form

(A response following a flexible working request must be made within 2 weeks of the meeting to discuss the application.)

To:
<p>Following receipt of your application and our meeting on.....</p> <p>I have considered your request for a new flexible working pattern and I am pleased to confirm that I am able to accommodate your application.</p> <p>or</p> <p>I am unable to accommodate your original request but am able to offer the alternative pattern which we have discussed and you agreed would be suitable to you.</p> <p>Your new working pattern will be as follows:</p>
<p>Your new working arrangements pattern will begin on            (DATE) for an initial trial period of X months.</p> <p>A meeting will take place on   (DATE) in order to review the arrangement (<i>and confirm this as a permanent arrangement*</i> if applicable). The agreement will however be reviewed on an annual basis to ensure it remains suitable for you and for the Trust.</p>
<p>If you have any questions about the information provided on this form, please contact me to discuss them as soon as possible.</p>

Manager's name:

Title:

Signed:

Date:

**Note to employee:**

The Trust reserves the right to revoke the arrangement in future should service/business needs not be met through the continuation of this arrangement. This would be done following full consultation to try to find a mutually acceptable arrangement.

Should the change in flexible working result in an increase or decrease in hours you will receive an amendment to contract letter confirming this change and the consequent change in pay.

**Employee: I agree to the changes made above to my terms and conditions of employment**

Employee's name:

Signed:

Date:

## Appendix 4 - Flexible Working Request Rejection Form

(A response following a flexible working request must be made within 2 weeks of the meeting to discuss the application.)

To:

Following receipt of your application and our meeting on.....

I have considered your request for a new flexible working pattern and

I regret to inform you that I am unable to accommodate your application for the following business grounds (tick appropriate reason):

- Burden of additional costs
- Detrimental effect on ability to meet service 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 propose to work
- Planned structural changes.

The grounds apply in your circumstance because:

If you have any questions about the information provided on this form, please contact me to discuss them.

You have the right to appeal against this decision. Please refer to the Trust's Appeal Policy for further guidance.

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Manager's name:

Title:

Signed:

Date:

**Note to manager:**

Please place a copy of this form on the employee's personal file and return the original to the employee.