

# FLEXIBLE WORKING

# POLICY

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<b>Directorate responsible for document:</b>	HR & Organisational Development
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## Policy Checklist

<b>Policy name:</b>	Flexible Working Policy
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<b>Director responsible for Policy:</b>	Vivienne Toal
<b>Directorate responsible for Policy:</b>	HR & Organisational Development
<b>Equality Screened by:</b>	Cathy Lavery
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## Version Control

<b>Version:</b>	Version 1_2		
<b>Supersedes:</b>	Work Life Balance Policy, June 2019 Work Life Balance Policy (Interim) April 2022		
<b>Version History</b>			
Version	Notes on revisions/modifications and who document was circulated or presented to	Date	Lead Policy Author
Version 1_2	This is a refresh of the previous WLB policy to reflect additions from Section 33.	01/04/2022	Cathy Lavery
<i>Eg Version 2_0</i>	This is a review of the Trust's previous Work-Life Balance Policy (Interim) April 2022 Summary of main changes: <ul style="list-style-type: none"> <li>• Change of policy name</li> <li>• Revised Policy Statement</li> <li>• Removal of process details (now provided in separate guidance materials)</li> <li>• Summary of Flexible Working arrangements provided as appendix</li> <li>• Various minor amendments to wording</li> </ul>	01/11/2022	Cathy Lavery

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### **Important Note:**

Please note the Trust has a range of other statutory provisions such as shared parental leave, paternity leave, maternity and adoption leave etc.

In addition, the Trust has a Time off Work Policy which sets out details of other arrangements for time off work, details of the time permitted and if the time off work is paid or unpaid.

For further details go to the HR SharePoint site on the Trust's intranet or contact the Employee Relations Team for further information.

## **1. Introduction**

The Southern Health & Social Care Trust (the Trust) is committed to equality of opportunity and recognises the benefits of having in place a range of Flexible Working policies and provisions in order to support its employees throughout their career to manage and balance their work and home responsibilities.

This policy has been developed in accordance with the Trust's Key Principles for Policy development.

## **2. Purpose and Aims**

2.1 The purpose of the Flexible Working Policy is to enable staff to achieve a balance between their work and personal commitments.

2.2 The objectives of the Flexible Working Policy are to:

- enable the Trust to retain the skill and expertise of staff who are no longer able/wish to continue in their usual working pattern;
- facilitate staff who wish to continue working at the same time as meeting other commitments;
- provide new job opportunities in the Trust;
- provide an opportunity for employees to return to employment within the Trust on a flexible basis;
- enable the Trust to become an Employer of Choice in line with the Health and Social Care Workforce Strategy 2026;
- consider flexible working options as part of the Trust's duty to make reasonable adjustments for disabled staff;
- ensure the principles of flexible working are embedded in the Trust's management arrangements, encouraging open and constructive dialogue between staff and managers at all levels.

## **3. Key Principles**

3.1 All employees will have a contractual right to request flexible working from the first day of their employment. There is **no** minimum length of service required.

3.2 Employees can make more than one flexible working request per year.

3.3 Employees can make a flexible working request regardless of their role, grade or service they work in.

- 3.4 Flexible working arrangements can be short term or long term in nature.
- 3.5 There is no automatic right to have a request for flexibility agreed, as there may be legitimate reason why the employer is unable to accommodate it. Approval of an application will not be unreasonably withheld.
- 3.6 This policy seeks to ensure equality of access to flexible working, as far as practicable, regardless of role, shift pattern, team or pay band.
- 3.7 Where agreement can be reached, staff may initially be accommodated to undertake the Flexible Working provision on a trial basis. In such circumstances, this will be for a defined period. The trial basis may also be a request by management to ensure that the service is not adversely affected by the change in working arrangements. Trial periods should be up to a maximum of 6 months but may be shorter if agreed between the employee and the manager.
- 3.8 There will be no automatic right to revert to previous working arrangements, following approval of a flexible working request.
- 3.9 There will be a mutual commitment to flexibility from all parties, to ensure a reasonable solution can be found to meet the needs of both staff and the service.

For ease of reference, a flowchart outlining the flexible working application process is included in Appendix 2.

#### **4. Policy Statement**

- 4.1 To ensure Health and Social Care in Northern Ireland remains an employer of Choice and can attract and retain its most valuable resource, flexible working will be key. In order to fully maximise our workforce, it is essential that we continue to create a culture and work environment whereby staff feel valued, encouraged, and supported and consider staff as a precious asset especially given the workforce challenges and demands that exist across the HSC system. The Trust will embrace inclusive flexible working arrangements and seek to adapt its traditional thinking and adopt a more modern, forward looking flexible approach in order to respond to unprecedented challenges and demands facing our staff and support them to achieve a healthy work life balance.
- 4.2 The Trust believes that all posts should be considered for flexible working subject to the needs of the service.

#### **5. Scope of Policy**

- 5.1 This policy applies to employees in the Trust (who meet the criteria as described within each of the provisions detailed in Appendix 1).

## **6. Responsibilities**

- 6.1 The Chief Executive has responsibility for ensuring that there is an appropriate structure for the management and review of this Policy. The Chief Executive has appointed the Director of Human Resources and Organisational Development as Lead Director with responsibility for establishing and reviewing this Policy.
- 6.2 The Director of Human Resources and Organisational Development will provide strategic leadership, direction and oversight of this Policy and its implementation. S/he will ensure that training is provided to managers on the application of this Policy.
- 6.3 Managers are responsible for implementing this Policy in accordance with the associated guidance for Managers and Employees.
- 6.4 Employees are encouraged to discuss with their line manager what flexible working options may be available in their role prior to submitting a formal request.

## **7. Legislative Compliance, Relevant Policies, Procedures and Guidance**

- 7.1 Under provisions set out in the Employment Rights (Northern Ireland) Order 1996 and regulations made under it, **all** employees have a statutory right to ask their employer for a change to their contractual terms and conditions of employment to work flexibly. The statutory right is a **'right to request' and not a right to be granted flexible working**.
- 7.2 The Part-time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000 make it unlawful to treat part-time workers less favourably in their contractual terms and conditions than comparable full-time employees. This means that when granting a request for flexible working that involves a reduction in hours, managers should be aware that employees are still entitled to the same consideration in respect of training, promotion and financial issues.
- 7.3 In dealing with requests for flexible working managers should be particularly cognisant of the Sex Discrimination (Northern Ireland) Order 1976 which prohibits direct and indirect discrimination. Direct discrimination occurs where a woman or a man is treated less favourably than a person of the opposite sex in comparable circumstances because of their sex.
- 7.4 Managers should also note that flexible working arrangements may benefit staff with a disability or long term health condition. Managers should consider whether a request for flexible working may be a reasonable adjustment for an employee under the Disability Discrimination Act.

7.5 The Trust has a range of other statutory provisions such as shared parental leave, paternity leave, maternity and adoption leave etc.

In addition, the Trust has a Time off Work Policy which sets out details of other arrangements for time off work, details of the time permitted and if the time off work is paid or unpaid.

## **8. Impact on Pay and Benefits**

8.1 Where a Flexible Working provision will impact on an employee's pay, an application form must be completed, approved and forwarded to Employee Relations by the 3<sup>rd</sup> working day of the month, or 31<sup>st</sup> January each year for Term Time and 10/11 Month Contracts.

8.2 Where a Flexible Working provision will not impact on an employee's pay, this can commence as soon as agreed between the employee and his/her manager, for an initial trial period of up to 6 months.

8.3 In the event that an employee reduces their income by pursuing any of the Flexible Working Policy provisions, they should consult with the following Departments regarding the impact this will have on National Insurance benefits, Pension benefits and terms & conditions of service:

- Pension - HSC Pension Branch, Waterside House, 75 Duke Street, Londonderry – Telephone 028 7131 9111
- National Insurance - Department of Health & Social Security (local office)
- State Pension/Benefits - Department of Health & Social Security (local office)
- Term & Conditions - Employee Relations Department, St Luke's Site, Loughgall Rd, Armagh – Telephone – 028 375 64200

8.4 During an unpaid Flexible Working provision, employees will not accrue annual/statutory leave entitlements. Time spent on an unpaid Flexible Working provision will not count towards qualifying service for additional annual leave entitlements and similarly it will not count towards service for contractual redundancy payments.

## **9. Unpaid Absence - Pension & National Insurance Contributions**

9.1 Pension Contributions - If an employee contributes to the HSC Pension Scheme and wishes to continue to contribute to the Scheme during an unpaid absence then it is important to note that during the first 6 months staff will be responsible for their own share of the contributions and the Trust will continue to pay the employer's share. However, thereafter staff have the option to contribute up to a further period of 18 months and they will be

responsible **for both their own and the employer's share of the contributions**. The maximum period for contributing to the HSC Pension Scheme during an unpaid absence is 24 months. If staff wish to continue paying pension contributions it is very important that they contact the Payroll Shared Services Centre on telephone no: 028 95362190 or the Employee Relations Department on 028 3756 4200 before the unpaid absence commences to make arrangements for the collection of the contributions, as they must be collected **continuously** during the absence and cannot be allowed to accumulate and payment made on return from the absence.

- 9.2 National Insurance Contributions - It is important that staff contact their local Department of Health & Social Security Office regarding the impact an unpaid absence will have on benefits associated with National Insurance Contributions.

## **10. Continuous Service**

- 10.1 Periods of service before and after any unpaid leave taken under the Flexible Working Policy will be treated as continuous employment for statutory purposes only.

## **11. Return to Work from Employment Break**

- 11.1 Where an employee returns to work within one year, they will return to the same job as far as is reasonably practicable. If however, the break is longer than one year, the employee may return to as similar a job as possible. Employees returning from an employment break will be entitled to return at the equivalent pay band, reflecting increases awarded during the break. Employees will be required to consider all reasonable offers of suitable alternative employment. It should be noted that no guarantee can be given that the employee will return to either their substantive post or within the same Directorate. Employees may be required to be employed at a new work location and in these circumstances excess travelling expenses will not be paid. If an employee refuses to accept reasonable offers of suitable alternative employment, the Trust cannot accept liability for the individual failing to become re-employed.
- 11.2 An employee returning from any type of Flexible Working provision to a different post must meet the normal Recruitment and Selection Criteria for the post. They may also be required to meet with the manager concerned for an informal discussion, which will assist in assessing their suitability.
- 11.3 Applicants seeking an extension to any Flexible Working provision must submit a Flexible Working Application Form and return to their manager for approval

## **12. Training and Development**

- 12.1 Employees who participate in Flexible Working schemes should have their training and development needs identified by their Line Managers through normal channels, for example, Appraisal process.
- 12.2 Employees who participate in Flexible Working provisions must also make a commitment to attend, where necessary, appropriate training during their Flexible Working provision with the aim of acquiring and maintaining relevant skills, techniques and knowledge to allow them to return to the workplace/maintain their role and responsibilities with an appropriate level of confidence, skill and ability. During an Employment Break, the number of returner days (maximum of 10 per year) that an employee will be required to work will be determined by the Line Manager/Head of Department. Employees will be paid for the number of returner days they are required to work.
- 12.3 Staff will be responsible for maintaining their own professional registration during any break in employment including the meeting of any requirements under such regulations.

## **13. Promotion**

- 13.1 An individual availing of Flexible Working provisions will be eligible to apply for jobs in the normal way. **It is the responsibility of the employee to maintain contact with their Line Manager in order to receive information on job vacancies that may arise during their period of absence.** Employees should notify their Line Manager of their forwarding address if it differs from their normal correspondence address. Employees will not, however, have an automatic right to carry their current working pattern into the new post and may be required to return to work immediately should they be on one of the leave provisions, e.g. Parental Leave.

## **14. Conduct**

- 14.1 During all Flexible Working provisions, the employee will be subject to all normal regulations as to conduct. Disciplinary action may be taken where appropriate.

## **15. Review**

- 15.1 In order to assess the operational effectiveness of the Trust's Flexible Working Policy a review will be undertaken at regular intervals and not later than 3 years following implementation, in partnership with Trade Union colleagues.

## **16. Equality and Human Rights Considerations**

- 16.1 This policy has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998. Equality Commission guidance states that the purpose of screening is to identify those policies which are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these. No significant equality implications have been identified. The policy will therefore not be subject to an equality impact assessment
- 16.2 Similarly, this policy has been considered under the terms of the Human Rights Act 1998, and was deemed compatible with the European Convention Rights contained in the Act.

## **17. Sources of Advice and Further Information**

- 17.1 Further information about the Flexible Working Policy can be obtained from the:

Employee Relations Department, Hill Building, St. Luke's Site, Loughgall Road, Armagh, BT61 7NQ, Tel: 028 3756 4200

Email: [managers.hrsupport@southerntrust.hscni.net](mailto:managers.hrsupport@southerntrust.hscni.net)

Or

Equality, Diversity & Inclusion Unit, Hill Building, St. Luke's Site, Loughgall Road, Armagh, BT61 7NQ, Tel: 028 3756 3151

Email: [Equality.Unit@southerntrust.hscni.net](mailto:Equality.Unit@southerntrust.hscni.net)

**SUMMARY OF FLEXIBLE WORKING PROVISIONS**

These flexible working options are available to all staff (with the exception of an Employment Break, Term-Time Working or 10/11 month contracts, which are not available to staff on fixed term or Bank contracts).

Given the needs of the service or the hours in which the service is delivered, not all the options outlined will be suitable for every role, however managers will do their best to accommodate requests where possible.

The list below is not exhaustive.

**SECTION 1: PROVISIONS WHICH DO NOT IMPACT ON PAY**

- **Compressed Working Week/Tailored Hours** – this allows employees to work their contracted hours over fewer days, for example instead of working 9.00-5.00, 5 days per week, they would work the same hours over four days (for example, 8.00-6.00 3 days and 8.00-5.30 1 day).
- **Flexi-time** – this allows employees to flex their start and finish times on an ad hoc basis by agreement with their manager, for example starting work half an hour early and leaving half an hour early. Flexi-time works on the proviso that there are core working hours, during which staff must be on duty but there are also flexible periods, during which staff can choose their own starting and finishing times.
- **Any 5 in 7** – this allows employees to work their contracted hours during 5 of any 7 days of the week.
- **Staggered Hours** - staggered hours may be used, for example, if an employee needs to attend to the needs of someone they care for during the course of the working day. The individual can work, for example, 8.00am - 11.30am and 2.00pm - 6.00pm, or 9.00am - 1.30pm and 6:00pm - 9:00pm to facilitate the collection of children from school and the supervision of homework.
- **Hybrid working** – where the nature of an employee's role allows, the Trust is fully supportive of staff working from home for a proportion of their working time. The amount of time working remotely will be agreed between the employee and their line manager, within the wider context of the team in which they work and will be subject to regular review. Employees who have an arrangement for hybrid working will be required to attend the workplace for appropriate meetings, supervision, training etc. Separate guidance is available for managers and staff in relation to Hybrid Working.
- **Average/Annualised Hours** – this allows an employee to work their contracted hours over an agreed period with the amount worked each week varying, depending on the workload or the employee's personal circumstances. The period may be over a year, half yearly, quarterly or monthly, depending on what is agreed between the employee and the line manager. Employees commit to a number of hours over the agreed period as well as a pattern of working which allows for commitments outside work but also

meets the needs of the service. Employees may be required to work a maximum/minimum number of hours per week as agreed. This style of working will particularly suit those staff who prefer to work a variation of longer and shorter hours that allows them to balance working life and/or domestic responsibilities.

- **Team-based self-rostering** – this 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.

This approach allows staff to have more control over the scheduling of their working lives while enabling start and finish times to link in more efficiently to travel and family care arrangements

## **SECTION 2: PROVISIONS WHICH IMPACT ON PAY**

- **Job Share** – this is simply sharing one full-time job role equally between two people. The Terms and Conditions of Service attached to the post are also shared including the weekly wage/salary of the post, annual leave, statutory leave and general conditions.
- **Part-time Working** – this allows employees to reduce their normal working hours. The pattern in which the hours work may be half days, shorter days or a reduced number of working days per week.
- **Unpaid Leave** – this allows employees up to a maximum of 3 months unpaid leave. On return to work an employee will resume their former post.
- **Employment Break** – It is recognised that there will be times when employees would like an extended period of time off work for various reasons but are committed to return to their role after that time away. An employment break allows such staff to take a period of planned unpaid leave for a minimum of three months and maximum of 5 years. During the period of the Employment Break, the individual will continue to be an employee of the Trust and there is an expectation that the employee will return to the Trust at the end of their Employment Break.

For those taking up to 1 year the Trust will give a commitment where possible to hold your own post for you coming back. Where that is not feasible or where the break extends past one year, every effort will be made to find a suitable alternative post within the Trust on their return. In order to give the best possible chance of finding an alternative role, staff are required to give 6 months’ notice of their return.

- **Term-Time Working** – in order to support working parents to overcome the difficulties in finding child care during the school holidays, this provision allows employees to take unpaid leave (minimum of 4 weeks and up to a maximum of 12 weeks. Weeks must be full weeks Monday to Sunday). Appreciating that it can be

challenging to lose a lump sum of normal salary at busy holiday times, this scheme enables staff to receive a regular wage/salary each week/month, though at a reduced rate e.g. 10 months' salary paid over a 12 month period. Applications for this scheme must be approved and with Employee Relations by 31st January each year, in order that the necessary arrangements can be made with the Payroll Service Centre in time for the new salary to become effective from 1 April. .

*As an employee's salary is calculated at the beginning of the financial year and averaged over the 52 weeks it therefore follows that no changes can be made to working arrangements which will impact on pay during the financial year, e.g. change of hours, unpaid leave, etc.,*

- **10/11 Month Contract** – this is very similar to the Term Time scheme above but can be for any reason and can be taken at any time of the year as agreed with an employee's manager. This scheme also allows for reduction in pay, annual and statutory leave to be spread across the full 12 months of the year. Again applications for this scheme must be approved and with Employee Relations by 31st January each year.
- **Work Break** – unfortunately there will be occasions where staff are faced with the situation where they are required to become the main carer for a family member/partner during life threatening, critical or terminal illness or to assist with their rehabilitation after such an illness. In order to support staff during that difficult time this scheme allows employees to have time off paid at half their normal salary for a period up to a maximum of 6 months.
- **Partial Retirement** – this allows employees to gradually move from work to retirement, supporting staff to remain in work for longer, working productively and safely, whilst accessing some of their HSC pension benefits through 'Partial Retirement' and preparing for final retirement from the service. An employee must have reached the minimum retirement age of 55 and have at least 2 years' pensionable service to avail of Partial Retirement.

For those in the 2008 or 2015 scheme Partial Retirement allows employees to receive some of their HSC Pension benefits while continuing to work within the Trust on a part-time basis (must result in at least a 10% reduction in annual pensionable earnings). Partial retirement will also apply to the 1995-2015 transitional pension scheme members but it will only apply to the 2015 scheme element of their benefits

- **Retire and Return** – this allows employees to retire from their job role and lift their pension, but then return to a role where their skills and knowledge are needed on a part-time temporary basis.

