Flexible Working Policy

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 |
| Impact Assessments Undertaken *(Delete if non-applicable)* | * Equality and Health Inequalities Impact Assessment
 |

# Version History

| Version | Date | Author (Name and Title) | Summary of amendments made |
| --- | --- | --- | --- |
| 0.1 | Feb 2022  | Senior HR Business Partner  | First draft ICB Policy |
| 0.2 | April 2022 | Viv Barnes, Governance Lead | Review of compliance with policy template |
| 0.1 | June 2022 | Senior HR Business Partner | Final draft for ICB approval  |
| 1.0 | 08/08/ 2022  | Senior HR Business Partner  | Final Review of Version 1.0 |
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## Introduction

The Integrated Care Board believes that its staff members are its most valuable asset and is committed to attracting and retaining the very best and utilising all the talent and experience available within the community. It also appreciates that the UK workforce is becoming increasingly diverse and includes a high percentage of parents and individuals with other caring responsibilities, as well as those whose interests and aspirations impact on their time. It therefore appreciates that the standard Monday to Friday, 9am to 5pm working week is, in many cases, incompatible with increasing demand for a better work-life balance.

Flexible working is a permanent change to an employee's terms and conditions relating to:

* The hours that they are required to work.
* The times that they are required to work.
* And where, as between their home and the employer's place of business, they are required to work (s.80F Employment Rights Act 1996).

However, the ICB is also supportive of temporary changes, i.e. less than 6 months, where the need arises and consideration may wish to be given to the ICB’s Hybrid Working Policy in these situations. Examples of flexible working include the working of shorter hours, flexitime, part-time working and job share.

The ICB recognises the importance of helping its employees balance their work and home life by offering flexible working arrangements that enable them to balance their working life with other priorities, including parental and other caring responsibilities, life-long learning, charity work, leisure activities and other interests. In turn it recognises that staffing levels must at all times remain in line with the demands of the business.

## Purpose

This policy aims to set out the ways in which flexible working can increase staff motivation, build better relationships between the ICB and its employees, increase the rate of retention of staff, reduce absence, attract new talent, promote work-life balance and reduce employee stress, and in doing so improve the ICB's efficiency, productivity and competitiveness. It provides a description of the issues involved, taking into account the possible benefits of each kind of flexible working to both employees and the ICB, but also raising possible drawbacks and areas of potential concern.

## Scope

This policy applies to all ICB Employees engaged on Agenda for Change Terms and Conditions of Service.

## Definitions

* **Flexible working** - an arrangement which supports an individual to have greater choice in when, where and how they work. (Definition from NHE/I guidance ‘Flexible working: Raising the standards for the NHS’ 20 January 2022 Version 1).

## Roles and Responsibilities

### Integrated Care Board

* + 1. The ICB Board is accountable and responsible for ensuring that the ICB has effective processes for employees to request flexible working in accordance with relevant legislation and Agenda for Change terms and conditions.

### Chief Executive

* + 1. The Chief Executive is accountable for the policy and procedure being in place to ensure fair and equitable approach to flexible working for employees.

### Policy Authors

* + 1. Policy authors are responsible for ensuring that this document is updated when any changes are made to legislation and/or the NHS Agenda for Change Terms and Conditions for Service for flexible working requests.

### Executive Chief People Officer

* + 1. The Executive Chief People Officer oversees the implementation of this policy and is responsible for ensuring that managers take action to meet the organisation’s obligations to ensure equity and consistency.

### Line Managers

* + 1. Line managers must make every effort to accommodate flexible working requests, considering:
* The effect of the proposed change on the work of the department and whether this could be accommodated.
* The effect on the morale and performance of the applicant if the application is turned down.
* The impact on other members of the team, including others who may wish to work similar working hours.
* Issues such as the performance management and supervision of the applicant and how access to continual development would be maintained.
* Whether a trial period of the proposed working pattern would be helpful to understand the impact.
* The compliance of the proposed working arrangement with Working Time Regulations.
	+ 1. In addition, it is also a line manager’s responsibility to:
* Deal promptly and supportively with all requests.
* Maintain written records of all aspects regarding the management of the application.
* Agree a review date of a maximum of 12 months to assess the impact of the working arrangements and its ongoing requirement; or when circumstances change whichever is the sooner.
* Complete the relevant change form to ensure that the contractual and pay arrangements are made accordingly.
* To ensure that their staff are aware of this policy and the guidance to support work-life balance, and apply the guidance in an effective, fair and consistent manner.
	+ 1. The line manager’s manager will consider and respond to an appeal where a flexible working request has been declined in accordance with this policy.

### Employees

* + 1. Employees are required to follow the ICB policy in making an application for flexible working.
		2. Employees are to raise, with their line manager, any concerns they have about being able to effectively manage the balance between their work commitments and home circumstances.

## The Business Need

Although the ICB is committed to providing the widest possible range of working patterns for its workforce, both management and employees need to be realistic and to recognise that the full range of flexible working options will not be appropriate for all jobs across all areas of the business.

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

* The cost of the proposed arrangement.
* The effect of the proposed arrangement on other staff.
* The level of supervision that the post-holder requires.
* The structure of the department and staff resources.
* Other issues specific to the individual's department.
* An analysis of the tasks specific to the role, including their frequency and duration.
	+ 1. Employees and line managers should ensure that they fully understand the arrangements in place (when a flexible working pattern/arrangement is agreed) as misuse/abuse may lead to disciplinary action being taken.

## Eligibility

All employees on Agenda for Change terms and conditions have the right to request flexible working from day one of employment and to have their request considered seriously by their employer.

Employees on Agenda for Change terms and conditions can make more than one flexible working request per year and can do so regardless of the reasons for them.

Although it is recognised that not all of the flexible working patterns considered will be suitable for all sections of the ICB's workforce, there should be no arbitrary barriers.

Employees in all areas and levels of the ICB will be considered for flexible working regardless of their age, sex, sexual orientation, race, or religion or belief, or whether they have a disability, their level of seniority, their current working pattern, or whether they are employed on a permanent or fixed-term basis.

However, there is no automatic right for employees to change to any of the flexible working patterns - each application will be considered on the basis of the particular work involved and any detrimental effect the change could have on individual, team or business performance.

Requests from parents or carers should not be prioritised over requests from other employees.

## Application for Flexible Working

### Application Procedure

* + 1. All requests should be made in writing using the Flexible Working Request Form ([available on the intranet](https://nhs.sharepoint.com/sites/99F_Connect/SitePages/HR-Forms-%26-Documents.aspx)  ) to the line manager and they should detail:
* The change requested.
* The proposed date for the change.
* The effect of the change on the department and service and how these may be considered or implemented.
* Any previous requests made.
	+ 1. Employees should follow the guidelines to assist them with the process and completing the Flexible Working Request Form:
* Consider the implications of the proposal to personal circumstances, salary, holidays, pension etc.
* Set out the proposals clearly and objectively using the form provided for this purpose.
* Consider the impact on colleagues.
* Consider the impact on the service provided in their work area.
* Consider whether the job can be efficiently carried out within the new working pattern.
* Consider there any health & safety implications from the proposal.
* Set out the benefits and any drawbacks to the proposal.
* If there is any training or support to make the proposal work.
* Be prepared to discuss the issue objectively and consider alternatives if necessary.
* Consider a trial period to ensure that both the manager and the employee can operate within the new system.
* Unless otherwise agreed, a successful flexible working request should be considered a substantive change in contractual terms and conditions.
	+ 1. Following a receipt of a flexible working request, the manager will arrange a meeting to discuss the issue within 28 days. Employees have a right to be accompanied at the meeting by a Union Representative, colleague or other suitable companion as agreed with the manager.
		2. Appendix B contains a flow chart of the application process.

### Timeframes

* + 1. Any requests for flexible working must be considered within the following timeframes:
* All requests must be dealt with within a period of three months from first receipt to notification of the decision on appeal (if applicable).
* Within 20 working days of receiving the application a manager should meet with the employee to discuss the request and should notify the decision to the employee within 10 working days of the meeting, so that there is enough time for any appeal to be concluded.
	+ 1. Employees who are dissatisfied with the outcome of their request are allowed to lodge an appeal within 10 working days of the notification to the next line of management (i.e. the manager of the person who made the original decision), with the appeal to be heard within 10 working days, wherever possible.
		2. Any extensions to the above timeframes must be mutually agreed between the manager and employee and confirmed in writing. For example, the relevant manager and the employee may agree to extend the time limit to give the employee a trial period on the flexible working arrangements.

### Trial Periods

* + 1. In some circumstances the manager and/or employee may have reservations about the potential success of a new arrangement. In these circumstances, the manager may agree to a trail period of up to three months to assess the impact of the arrangement. There should be a midway review to discuss whether:
* The arrangement is likely to continue at the end of the trial.
* There needs to be some adjustment to allow the arrangement to continue.
* The arrangement is likely to cease and the employee reverts to their original hours/pattern of work at the end of the trial period.

**Decision**

* + 1. Decisions must be confirmed to the employee in writing by the line manager who completes the section on the Flexible Working Request Form.
		2. Where a flexible working arrangement is proposed the line manager 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.
* The availability of staff resources.
* Details of the tasks specific to the role.
* The workload of the role.
* Whether it is a request for a reasonable adjustment related to a disability.
* Health and safety issues.

### Appeals Process

* + 1. In case the application is declined by the ICB, the employee will have the right to appeal using the same Flexible Working Request Form.
		2. Appeals should follow the process below:
* The appeal should be submitted to the next line of management (i.e. the manager of the person who made the original decision), within 10 working days of the decision being communicated in writing.
* The grounds for the appeal must be clearly stated.
* Copies of the original Flexible Working Request Form, the section outlining the reasons for declining the request, and any additional supporting information should be included.
* The appeal meeting should be held within 10 working days of receipt of the appeal, wherever possible.
* The appeal meeting will be chaired by the next line of management
* A Human Resources representative can be requested to attend the meeting by either party.
* The appeal outcome should be communicated in writing within 10 working days of the meeting and set out the reasons for the decision to uphold or dismiss the appeal.
* All decisions are final and the matter will then be regarded as closed.
* All employees have the right to be accompanied by a Union Representative, colleague or friend employed by the ICB.
* There is no further right of appeal via any other ICB policy, for example the [Grievance Policy](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=2).

### Withdrawing an Application

* + 1. A request to work flexibly can be withdrawn at any time before it has been accepted and any new terms and conditions agreed and put in place.
		2. If an employee fails to attend more than one meeting arranged to discuss the request and does not provide a reasonable explanation, the employer may assume that the application has been withdrawn.
		3. The ICB may also treat an application as withdrawn if the employee does not provide the required information.

## Monitoring Compliance

The HR Team will be responsible for monitoring that this procedure is followed and may be consulted at any stage through the process to offer advice to those involved.

Monitoring information will be published and reported as appropriate.

Should the monitoring uncover any shortfalls in the implementation of the policy, the HR team will work with the relevant management team to draw up an action plan for improvement. This action plan may include, for example:

* + Training for line managers.
	+ A risk assessment.
	+ It is also anticipated that any issues in respect of the implementation of the policy may be identified as a result of staff exercising their right of appeal.

## Staff Training

No essential (including mandatory) learning and development requirements have been identified for any staff groups, in order to fulfil the requirements stated within this policy.

Guidance can be sought from Human Resources team.

## Arrangements for Review

This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the Integrated Care Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

## Associated Policies, Guidance And Documents

#### [Associated Policies](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=2)

* Hybrid Working Policy

## References

* ACAS Code of Practice 5 – Code of Practice on Handling in a reasonable manner requests to work flexibly.
* NHS Agenda for Change Terms and Conditions of Service.

## Equality Impact Assessment

The EIA has identified no equality issues with this policy.

The EIA has been included as Appendix A.

## Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy:** Flexible Working **Version number (if relevant): 1.0** | **Directorate/Service**: People Services  |
| **Assessor’s Name and Job Title:** Carolyn Druce, HR Business Partner  | **Date:** 29th April 2022 |

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| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff*  |
| Policy recognises the importance of helping its employees balance their work and home life by offering flexible working arrangements that enable them to balance their working life with other priorities, including parental and other caring responsibilities, life-long learning, charity work, leisure activities and other interests. In turn it recognises that staffing levels must at all times remain in line with the demands of the business. |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The ICB monitors the composition of its workforce under the nine protected equality characteristics and reports on this annually. This information helps the ICB to assess the potential impact of its policies upon staff. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?*  |
| Relevant Trade Unions have been consulted on the policy and any comments will be taken into consideration when the policy is published. |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| ProtectedGroup | Positiveoutcome | Negativeoutcome | Neutraloutcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | x | AfC has widen the scope of people who may request flexible working. Also see purpose of policy which widens reasons for requesting flexible working.  |
| Disability(Physical and Mental/Learning) |  |  | x |  |
| Religion or belief |  |  | x |  |
| Sex (Gender) |  |  | x |  |
| Sexual Orientation |  |  | x |  |
| Transgender / Gender Reassignment |  |  | x |  |
| Race and ethnicity |  |  | x |  |
| Pregnancy and maternity (including breastfeeding mothers) |  |  | x |  |
| Marriage or Civil Partnership |  |  | x |  |

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| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| It is anticipated that any issues in respect of the implementation of the policy will be identified as a result of staff exercising their right of appeal or via monitoring of statistics from applications.  |

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| **REVIEW** |
| *How often will you review this policy / service?*  |
| Every 2 years as a minimum and earlier if there are any significant changes in legislation, policy or good practice. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |

##

## Appendix B – Flexible Working Process Flow Chart

Employee submits Flexible Working Request Form to line manager

Line Manager and employee meet to discuss application

**Within 20 days of receipt of request**

**Within 20 working days of receipt**

Line Manager advises of outcome and rationale for decision

**Within 10 working days of meeting**

**Application Successful** **Application Unsuccessful**

Details finalised; effective date agreed

Employee decides whether to appeal

Details confirmed using Flexible Working Request Form to employee

Appeal submitted

**Within 10 working days of written decision**

Appeal meeting held

**Within 10 working days of receipt of appeal**

Change Form completed and details sent to HR

Appeal decision notified **in writing**

**Within 10 working days of appeal meeting**

Changes to terms & conditions confirmed in writing by HR

**Appeal Successful Appeal Unsuccessful**

Changes to terms & conditions confirmed in writing

End of process