Leicestershire Partnership NHS Trust

Flexible Working Policy and Procedure

This Policy describes the types of flexible arrangement available and explains the process for employees to make a request to work flexibly /change their working hours/working pattern.

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1.0 Quick Look Summary

The Trust welcomes the opportunity for all staff to work flexibly using the widest range of flexible working options, whilst maintaining high quality services to all service users. High quality flexible working arrangements are an important component of helping staff maintain a positive balance between their work and personal lives and are a cornerstone of the Trusts people friendly policies.

This is reflected in the NHS People Plan which aims 'through a combination of technology and a change in people practices, to give people greater choice over their working patterns, help them achieve a better work-life balance, and help the NHS remain an active career choice'.

The Trust's encourages flexible working to be embedded throughout each stage of employment with the Trust. This includes welcoming flexible working requests as part of the recruitment process.

This policy therefore replaces all previous flexible working policies and practices, including any particular local or regional arrangements.

1.1 Version Control and Summary of Changes

Version number	Date	Comments
1	December 2023	New policy adopted from North East London NHS Foundation Trust (NELFT) and in line with the NHS People Plan.
2	May 2023	Clarification added to explain how informal flexible working requests can be agreed / recorded. Appendix 4 added to explain Flexitime Arrangements and TOIL in more detail. All other appendices re-numbered accordingly.
2.1	October 2026	Extension agreed for 6 months to allow working group to review

1.2 Key individuals involved in developing and consulting on the document

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1.3 Governance

Level 2 or 3 approving delivery group	**Level 1 Committee to ratify policy**
Strategic Workforce Group	People and Culture Committee

1.4 Equality Statement

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the provisions of the Equality Act 2010 and promotes equal opportunities for all. This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

1.5 Due Regard

LPT will ensure that Due regard for equality is taken and as such will undertake an analysis of equality (assessment of impact) on existing and new policies in line with the Equality Act 2010. This process will help to ensure that:

- Strategies, policies and procedures and services are free from discrimination.
- LPT complies with current equality legislation.
- Due regard is given to equality in decision making and subsequent processes.
- Opportunities for promoting equality are identified.

Please refer to due regard assessment (Appendix 6) of this policy.

1.6 Definitions that Apply to this Policy

Flexible working refers to working practices mutually agreed between employee and the Trust, which covers working hours, location, or pattern of work.

Working arrangements must comply with legislation on working time legislation, including hours, rest breaks and the working week.

The reason for an employee's request to work flexibly is not relevant. Employees are free to request a flexible working arrangement for any reason.

For the purposes of this policy, 'flexible working' is defined in the context of the employment relationship between individual members of staff and the Trust, and this is the focus of this document.

It is different from 'Agile Working' which is about the more efficient and effective way of working through use of technology, tools, and workspaces. There will of course be overlaps between the two areas and in some cases, one enables the other. For example, the ability to work flexibly from home or other locations might require particular technological support.

Flexible working arrangements may also be used to support employees with disabilities. However, in those circumstances, flexible working arrangements should be managed by the employee's manager with support from HR, as a reasonable adjustment, outside of this policy. Further information can be found at https://www.england.nhs.uk/wp-content/uploads/2022/06/flexible-working-toolkit-for-individuals.pdf

Part Time	Works less than full time hours on a permanent basis
Temporary	Works reduced hours for an agreed period of time – usually up to one

reduction in hours	year
Flexi time	Works same hours each week/period, but with flexible daily start and end times
Job share	A full-time job split between two employees
Term time	Works only during school terms, does not work school holidays. Pay averaged over the year
Annualised hours	Flexing the working year, with the number of hours averaged over the year, normally paid in equal monthly instalments
Home working	Working from home within flexible times
Staggered working hours	Where staff work a set number of hours during the day but with different start and finish times
Compressed hours	Working your contracted weekly hours over fewer days per week. For example, working your hours over four days instead of five
Due Regard	Having **due regard** for advancing equality involves: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

2.0. Purpose and Introduction

The Trust aims to support staff members in balancing their work and personal lives through the introduction of a flexible working culture that ensures that all staff have access to a range of flexible working options that supports their personal commitments.
The aim of this policy is to outline the responsibilities and expectations of all staff in relation to flexible working, both formally and informally. This will be achieved by:

- Providing information about the types of flexible working that staff may wish to consider.
- Having a clear and concise policy and process in place to ensure that informal and formal flexible working arrangements are fully integrated across the Trust.
- introducing flexible working applications through ESR as an additional mechanism as the Trust moves towards making full use of ESR functionality and to advise on the benefits of using ESR for applications.
- Deliver the various benefits of flexible working to staff and the Trust.
- Demonstrating that the Trust meets, and exceeds, their legal obligation.

All staff should act in accordance with our Trust leadership behaviours for all and be able to evidence adherence in situations that involves a probation period. A fundamental approach to developing our Leadership behaviours for all is our ability to both give and receive feedback in a positive and insightful way. The feedback method is based on defining; Context, Understanding, Behaviour and Effect (CUBE).

Statutory Requirements

The Trust fully supports the principles of equal opportunities in employment and opposes all forms of unlawful or unfair discrimination. The Trust is fully committed to eliminating discrimination and encouraging diversity amongst its workforce.

As defined in the NHS Terms & Conditions members of staff in all areas of the Trust are able to apply 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. Each request will be addressed in line with the Trust's approach to flexible working and the member of staff's statutory rights. This will include considering the particular work involved and any effect the change could have on individual, team, or service performance.
This policy meets the requirements of the Employment Rights Act 1996, the Children and Families Act 2014 and the Flexible Working Regulations 2014. In addition, the Equality Act 2010 recognises the concept of 'associative' discrimination in relation to age and disability. Employees who are carers therefore have a legal right not to be discriminated against because of association with disability or age. This may be relevant to some flexible working applications.

In addition to the above, line managers are required to consider flexible working options as part of their duty to make reasonable adjustments for:

- Disabled staff and job applicants, under the Equality Act 2010
- Staff returning from maternity leave
- the Equality Act 2010 https://www.equalityhumanrights.com/equality/equality-act-2010

From 30 June 2014 all employees had a statutory right to ask the Trust for a change to their contractual terms and conditions of employment, to work flexibly. This has been further updated with the amendment to the NHS Terms & Conditions for members of staff to request flexible working from day 1 of employment from the 9 September 2021.

These amendments form the backbone of the policy to ensure that flexible working is open to all members of staff as part of the Trust's commitment to people friendly policies.

3.0 Benefits of Flexible Working

The NHS and primary care define 'flexible working' as "an arrangement which supports an individual to have greater choice in when, where and how they work". This may include changes to their working pattern, hours and role, and/or the location in which their work takes place. Having a flexible working arrangement can help individuals to have better notification of, and predictability in, their work schedules and so may facilitate greater variation in their work.

Flexible working helps contribute to people's mental health, wellbeing and engagement with their role, and all staff should have the chance to work flexibly, regardless of role, grade, or reason.

The Trust aims to ensure that all people friendly policies deliver the following:

- Patient/service user and staff experience
- Service Delivery

- A highly motivated workforce who will deliver high quality work that is adaptable and flexible.
- A workforce which is both efficient and effective.
- A significant improved ability to retain staff in a competitive employment market including those staff with particular skills and valued experience and where the Trust has invested in development.
- The ability to recruit, retain and develop a more diverse workforce as an employer of choice.
- Reduction in costs associated with high levels of turnover, lost productivity, and recruitment.
- Supporting efforts to reduce the gender pay gap and promote career progression for all.
- Reducing the Trust's carbon footprint and improving air quality through reduced business and commuter travel.
- Improve work/life balance which can positively impact on employee's health and wellbeing.
- Help improve the scope for members of staff to better manage their day-to-day responsibilities.
- Support staff with maintaining their work/life balance.
- Increase access to career progression at all levels.

3.1 Right to Request Flexible Working

All members of staff have the right to make a flexible working request from day 1 of employment. This is regardless of the reason.

- There is no limit on the number of requests that can be made.
- Members of staff can make more than one flexible working request per year.
- Requests can be made during the probation period.
- Members of staff can also reapply if a previous request has been declined.
- Temporary changes should be discussed informally with the line manager.
- Significant changes (i.e. contractual impacts) are expected to go through the formal process.

Members of staff should consider what flexible working options would work best for them and focus on what some of the benefits might be to the team and the Trust of the proposed pattern. By preparing for some of the questions, it will help to encourage a positive conversation.

Recruitment & Flex from Day 1

The NHS Terms & Conditions of Employment state that members of staff can request flexible working from day 1 of their employment with the Trust. In addition, where possible, flexible working requests will be considered at the initial recruitment stage and through continued employment with the Trust. Offering flexible working options enables the Trust to attract a diverse range of high-quality candidates.

Where possible, all vacancies should be advertised as 'suitable for flexible working' unless stated otherwise. When using the statement 'suitable for flexible working' the advert should include specific references to the flexible working options available i.e., job share, part-time etc, unless agreed otherwise with advice from HR.

Recruiting managers are advised to address all flexible working enquiries as early as

reasonably possible in order to avoid lengthening the recruitment process.

Points for Consideration

To enable flexible working to be fully embedded it will be important to consider the following:

- What type of flexible working arrangements are being considered?
- How the flexible working arrangement benefit the individual, team and line manager including the relationship with service users.
- Financial reasons i.e., changes in salary, holiday entitlement and pensions contributions.

Employees should also assess the implications of their flexible working request and ensure that their requests are reasonable within the remit of their role and the wider Trust need. These considerations will help to better explore and discuss the proposed changes with the line manager.

Managers Approach to Flexible Working

The business benefits of flexible working are well known, and managers should therefore take a positive approach in that all requests are viewed as 'lets' see what can be done as a Team' in a constructive manner.
If necessary, managers should seek support from HR when discussing flexible working. This will include working through and developing the options as to how requests can be accommodated. An immediate refusal, without proper consideration of the request, is not an acceptable response.

There will be occasions where the particular flexible working arrangement requested cannot be accommodated in the context of the employee's role. Managers must review each request and discuss such requests with HR before rejecting them to ensure that all options (including possible alternative arrangements) have been properly explored and that one of the statutory reasons for rejecting the request applies.

3.2 Informal Flexible Working Agreements

Employee are encouraged to discuss flexible working requirements with their manager and requests for flexible working can be agreed informally by line managers during 1:1 or ad hoc meetings. Informal requests could be short- or long-term arrangements and line managers should consider them in-line with the guidelines in this policy.

Making an informal request for flexible working does *not* prevent employees from making a formal flexible working request (see section 3.4).

Agreeing Informal Flexible Working Arrangements

Where an employee and their managers have agreed a flexible working arrangement informally, the manager should make a record of the agreement in supervision records/notes. Managers are required to review the arrangements regularly at appraisals and during management supervision to ensure that they are still meeting the needs of the individual and the service.

3.4 Formal Flexible Working

Formal flexible working requests can be made in the following circumstances:

1. The employee wishes to apply for flexible working arrangements which will change their contract and/or pay.
2. It has not been possible to reach an informal flexible working agreement.
3. The employee wishes to formalise an informal arrangement.
4. The employee wishes to use their contractual and legal right to have their request for flexible working considered formally.

3.5 Examples of Flexible Working Options

Employees may request a variety of flexible working options, either informally or formally and their requests may be for the short or long term. Below are some examples of flexible working options, but this is not an exhaustive list.

Part Time Working:

Part-time working is any contracted hours less than the full-time equivalent.

Example: Member of staff requests to work 22.5 hours per week rather than the standard contractual hours of 37.5 per week.

Considerations: Where the request is made on a permanent basis, there is no automatic right to return to full-time/original hours later. his would have to be requested by way of the formal flexible working process.

However, where a manager agrees an employee's request to decrease their working hours for a specific period, their hours will automatically revert to their former working hours at the end of that period.

Daily hours of work:

Starting and ending the working day within mutually agreed parameters between manager and employee considering the specific business requirements.

Example: An employee requests to start or finish their working day earlier or later to enable them to reduce their travel time, or to attend personal commitments such as an evening class, a social club, community project or exercise class.

Considerations: The Trusts contract with employees is to work a set number of hours per week. Staff members and managers should work together to understand if there are specific business needs that need to be considered when agreeing the parameters for daily hours of work (e.g., a business requirement to provide cover during peak periods of demand).

Working from an alternative location:

Regularly working from an alternative location, through utilising our technology and smarter working tools.

Example: An employee requests to work remotely at home for some of their working days/hours.

Considerations: When considering the time ratio between time spent working in the office and from an alternative location, employees and line managers should take into consideration the importance of meeting with the team to maintain relationships and decrease the potential of social isolation, as well as any specific business needs.

The frequency with which the member of staff can work from an agreed alternative location is dependent on the role. Individual circumstances should be considered.
If it would benefit an employee to work from an alternative location due to their immediate circumstances and doing so would not impact negatively on their ability to meet objectives, managers are encouraged to use their discretion.

Job Share:

Two (or more) people undertaking one role on a shared basis. Contracts are inter-dependent.

Example: Two members of staff are interviewed for a post but wish to work less than 37.5 hours per week. Recruiting manager agrees to appoint both post holders and combine their hours to the full 37.5 hours per week.

Considerations:

- Job share applications can be received as applications for a vacant post or applications from employees to share an existing post.
- The hours of the job share partners should be agreed prior to the commencement of the job share and should equate to the hours of the full-time post. The hours worked by each employee do not need to be the same and may be renegotiated if required.
- The job share partners will have one common job description and each partner must be prepared to undertake the full range of duties.
- Each job share partner will have an individual contract of their terms and conditions of employment.
- In the event of one job share partner leaving, the remaining partner will be offered the positon a full-time basis. If this offer is declined, efforts will be made to recruit a new partner following the normal recruitment procedure.
- The vacant post will be advertised as a job share and all candidates should be made aware of the details of the job-sharing arrangements.
- If no suitable partner can be found, the manager should consider whether an alternative means of flexible working may be appropriate and discuss this with the employee.
- During the search for a job share partner, the working arrangements of the existing employee would normally remain unchanged. A job share arrangement is conditional on there being a suitable job-share partner. The job-share contract will set out in detail what happens if one job-share wishes to leave the job-share arrangement.

Staggered Working Hours:

Employees can determine their weekly working pattern within specified arrival and departure times on a planned weekly basis. Hours may be staggered on a permanent or temporary basis throughout the week or just on one or two days of the week. This

arrangement differs from "flexitime" where the arrival/departure time may varies from day to day with core hours specified.

Example: An employee work full-time over 5 days, but have different, fixed arrival and departure times to the 9-5 norm. For example, a member of staff could work 8-4 or 10-6.

Considerations: It should be agreed between the line manager and member of staff the confirmed weekly work pattern. Only in exceptional circumstances should the arrangement be changed at short notice. For example, the member of staff cannot change the arrangements on a daily basis. Managers should ensure that the teams working patterns do not cause conflict in terms of a shortfall in service provision.

Flexitime and time off in lieu (TOIL)

Employees work agreed 'core hours' each day but can vary their start and finish times in a flexible way to suit their personal needs and the requirements of their role.

Example: An employee works full-time (37.5 hours a week) over 5 days with 10 am – 4pm agreed as their 'core hours'. They must work between those core hours, but they are able to start as late as 10am or finish as early as 4pm each day. The employee logs the hours they have worked each day on a flexi-sheet (available on StaffNet in the Your Working Life section) to keep track of hours worked and to ensure that they are still working their contracted hours. Flexi-sheets are submitted to the manager for checking each month.

Considerations: Managers will need to monitor flexi-sheets and hours worked to ensure that employees are working their agreed hours. Although employees working flexitime can carry forward credit or debit hours at the end of the month, this should not exceed 10 hours and when an employee wishes to take back accrued time (TOIL) during **core hours** this must be agreed with the manager.

Full details of flexi-time arrangements are in Appendix 4.

Annualised Hours:

A set number of hours over the year are worked rather than per week with the hours potentially being unevenly distributed throughout the year. Normally a period of regular hours forms the core of the arrangement, with the remaining time left unallocated and used on a flexible basis to meet peaks in demand.

Example: An employee wishes to work an average of 1200 hours a year and will be paid on the basis of having worked 100 hours a month even though their hours may differ every week.

Considerations: Staff and managers considering an annualised hours contract can request a calculation of what this means in practice to their salary prior to making a final decision. This can be requested from the employee services team lpt.hrinputting@nhs.net

The basic salary will be paid in twelve equal parts regardless of when the hours are worked. The identification of a 'year' for this type of contract will normally run from 1 April until 31 March.

The plan of hours should be discussed and agreed in advance between the employee and their line manager. It is important that an accurate record is maintained of actual hours

worked and that this record is signed and agreed, by both the line manager and the employee at regular 1:1 meeting.

Annual leave entitlements will be calculated in hours as per part-time workers. Bank holidays will be included within the annual leave allowance and will be allocated on a pro rata basis for part-time staff.

Compressed hours:

Compressed hours allow an employee to work their contracted hours on a fixed hours basis over a shorter than normal period. This might be a long-term arrangement or could be requested to support the employee with a particular situation.

Example: Employee requests to work their full-time hours over a nine-day fortnight or a 4.5-day week, on a permanent basis.

Considerations: To ensure employees with compressed hours receive the correct entitlement to annual leave and bank holidays, the entitlement is totalled and calculated in hours, as for part-time workers

Term Time Only Working:

Term-time working is defined working regular full-time or part-time hours during school term periods and not working during the school holidays.

Example: Staff will either work 38 weeks per academic year or 39 weeks if they work on teacher training/inset days.

Considerations: Term-time contracts run from 1 September to 31 August in line with the academic year. Contracts are calculated at 38 or 39 working weeks.

Staff and managers considering a term time only contract can request a calculation of what this means in practice to their salary prior to making a final decision. This can be requested from the employee services team lpt.hrinputting@nhs.net

The salary of the term-time only employee will be paid in twelve equal parts. Employees should ensure that they are fully aware of the impact of the reduction of hours in terms of their pension, salary, and annual leave.

Staff will have deemed to have taken their annual leave during school holidays and will have no bookable leave during term time.

3.6 Flexible Working Considerations

Members of staff who have a flexible working arrangement will be treated no less favourably than a full-time worker. For example, they will have the same training and development opportunities (subject to the interaction of timing of training events and working arrangement), pay rates, selection for promotion, redundancy terms, holidays, pension, and opportunities for career breaks.

For all flexible working options members of staff must ensure that they consider the implications of amending their working pattern in terms of the impact of the reduction of hours in terms of their pension, salary, and annual leave.
When a flexible working arrangement is agreed pay and benefits will be adjusted on a pro rata basis and the effects of the proposed changes must be fully explained and agreed with the individual.

Working unsocial hours (8pm to 6am) is not encouraged, unless it is a requirement of the role. However, each case should be assessed on an individual basis. If an employee requests to work outside of these parameters to support their flexible working arrangements and exceptionally this is agreed by their line-manager, they would not be eligible to claim any additional payments insofar as it is not a requirement of the role. Employees must as a minimum comply with the Working Time Regulations 1998 including in respect of rest breaks and the limits on daily and weekly working hours.

Rest Breaks:

Flexible working requests to work hours or working patterns which do not comply with the Working Time Regulations 1998 - including the requirement to take adequate rest breaks – cannot be agreed.

Further information can be found in the Working Time Regulations Policy.

Review of Flexible Working Arrangements

It is recommended that formal and informal flexible working arrangements are reviewed regularly to ensure they are still meeting the needs of the individual and the service.

Flexible Working during Recruitment

The Trust actively encourages flexible working requests to be discussed during the recruitment process. If a flexible working pattern is discussed the applicant should clearly state their request and then the manager will advise if this can be supported in line with the requirements of the job role. If a flexible working request cannot be approved, due to service needs, then the recruiting manager will advise the applicant accordingly.

3.7 Applying for Flexible Working Process

For the purpose of the policy, an application is made when it is received by the line manager. Where a line manager is absent due to sickness or annual leave the employee should consider referring the request to their next in line manager for consideration.

The formal process (from submission of the request to confirmation of the outcome of the request or the outcome of the appeal, as appropriate) should take no longer than 2 months unless otherwise agreed by the line-manager and the employee.

1. In the first instance a request for flexible working should be discussed with the employee's line manager as part of the 1:1, or appraisal, process. The line manager should consider this request in-line with the guidelines stated in the policy.
2. Early discussions, in advance of an application will allow both parties to informally explore the most appropriate flexible working arrangements.
3. Line manager to review the request.

4. Discuss if informal flexible working would be an option.
5. If this isn't a suitable option, then the employee should complete the Flexible Working Request Form/Using ESR supervisor self-service (Appendix 1) and should be submitted to the line manager.
6. Where possible all flexible working requests will be considered within 5 working days. However there maybe times, due to unforeseen circumstances, where requests take longer than 5 working days. All those involved will be updated accordingly with the revised timescales.
7. On receipt of the flexible working request the line manager will review the request in line with the work of the team and the request should not be at the detriment to other staff. Managers must take a positive, pro-active approach, focussing on how to make the flexible working request work (rather than looking for reasons to reject it). Managers are encouraged to think broadly and creatively and to be open to considering how to support employees to work flexibly within agreed parameters.
8. Service delivery, clinical standards and health and safety requirements must not be compromised or increase risk to staff, patients, or the Trust.
9. Once the manager has reviewed and agreed to the changes this will be notified, in writing to the member of staff, as per Appendix 2.
10. Following the outcome of the application, a copy of this (Appendix 2) should be submitted to the HR Advisory team Directorate.
11. Any agreed requests should be updated on the Electronic Staff Record system (ESR) and Health Roster (where applicable).
12. Where there is a change to existing pay and annual leave, an amendment to contract will be issued by completing a H2 Change of Circumstance Form and processed on the Electronic Staff Record system (ESR).
13. If the arrangement is subject to the completion of a trial period, this condition will be confirmed in writing.
14. The proposed date for any new working pattern to commence should be effective as soon as reasonably possible. All requests should start in relation to payroll deadlines if hours worked are to be amended. Individuals on maternity leave who are able to request new working patterns which would be effective from the date of return to work.
15. At the request of the employee the decision may be made on either a trial or a permanent basis.
16. All new working arrangements should be discussed at regular intervals during one to one's meetings to ensure that current needs are being met and as part of the annual Appraisal process.
17. There is an expectation that where concerns arise in regard to the new way of working on either side that these are discussed openly at 1:1 session with a view to finding a mutual solution prior to the formal review process.

Recording a flexible working application on ESR

To achieve fair, equitable and consistent practice of monitoring flexible working applications and reporting mechanisms, line managers should record and process flexible working requests through Supervisor Self Service on ESR, on behalf of the employee.

Using ESR supervisor self-service to process a request on behalf of the employee is quick and easy and ESR will send line managers prompts throughout every stage of the application. Using ESR gives better oversight of arrangements for the whole team and ESR has the ability to produce reports; it also means that flexible working arrangements can move with the individual.

Reasons for Refusal

The Trust is committed to ensuring that all flexible working requests are treated fairly. If, however, a flexible working request is declined this will be because it falls under one of the following business reasons as set out in the Employment Rights Act 1996.

- The burden of additional costs
- An inability to reorganise work amongst existing staff
- An inability to recruit additional staff
- A detrimental impact on quality
- A detrimental impact on performance
- Detriment effect on ability to meet customer demand
- Insufficient work for the periods the employees proposes to work
- A planned structural change to the organisation.

In addition, if the request cannot be accommodated for one of the above reasons, the line manager and employee should explore whether an alternative arrangement can be agreed. The line-manager must consult with their HR Advisor if they are considering rejecting a formal flexible working request. HR should support the manager in taking a positive, constructive approach to the request and to ensure that the request is not rejected unless one of the statutory reasons apply.

A request cannot be refused simply because it does not comply with a departmental position. For example, that all employees must attend the office during specified core hours, as this would not meet the requirement to consider requests on a case-by-case basis.

While there will, of course, be services which must be provided during certain hours and employees may need to be present to provide those services, the manager should take an evidence-based approach to considering whether that service can be provided with fewer people at certain times in the day or week, and/or from alternative locations.

Process for refusal

When considering flexible working, the focus will be on the delivery of the employee's objectives, rather than when or where they work.

Employees and managers are required to consider the potential implications of implementing flexible working arrangements, for instance, the ability to meet individual, team and wider organisational objectives including ultimately patient care.

If the application is declined, then it is the managers responsibility to advise why the request is unable to be supported as detailed in Appendix 3 and per the details below:

1. The line manager should arrange a meeting with a member of staff to discuss the application. It is advisable that this meeting should be arranged no later than 5 working days after the initial decision on the outcome of the flexible working request has been made.
2. It is important that both sides remain flexible, in terms of confirming a meeting date, which may be affected by the needs of the service and unforeseen circumstances

3. If a meeting is required, to discuss the application, a colleague or trade union representative may accompany the employee and a HR Advisor will be present, accompanying the manager.
4. The purpose of this meeting will be to:
    - discuss the desired flexible working arrangements in depth
    - explore how best it might be accommodated ensuring a compromise can be reached
    - consider alternative arrangements, should there be a problem in accommodating the proposed arrangements; and consider terms of a trial period if appropriate.
5. The manager will either:
    - confirm the new working pattern and the start date.
    - or provide a clear explanation, referencing one or more of the statutory reasons, why the application cannot be accepted.
    - or set out details of any trial period to ascertain whether the arrangement can work in practice as per the trial period section of the policy
    - The outcome must be confirmed in writing within 5 working days of the meeting.

Overall, the formal process (from submission of the request to confirmation of the outcome of the request or the outcome of the appeal, as appropriate) should take no longer than 2 months unless otherwise agreed by the line-manager and the employee.

3.8 Right to Appeal

Where an application is refused the employee should be given the opportunity to appeal to the next level of management.

The appeal must be within 10 working days from the receipt of written confirmation of the outcome of the flexible working meeting. The appeal meeting will take place where possible, within 15 working days of receipt of the appeal and this decision will be final.

The employee must state the grounds upon which the appeal is based. If the ‘next in line manager’ is not considered to be impartial by either party, another senior manager within the team (or the wider directorate as necessary) can be appointed as the appeal manager. The grounds for appeal may be as follows:

- New information relevant to the request was not available at the time of the original application
- or they believe the process was not correctly followed.

The ‘next in line manager’ will consider the written appeal fully, taking into consideration alternative options and advice from their HR Advisor, and may:

- uphold the appeal directly and confirm this in writing, setting out the change agreed to within 10 working days; or
- Hold a meeting to hear the appeal within 10 working days of receipt of the appeal

The decision from that appeal meeting shall then be confirmed in writing within 5 working days of the meeting.

Should the appeal be upheld, the employee and their line manager will need to discuss and confirm the changes to their current work pattern using the Flexible Working Request Form and follow the process for approved applications as per Appendix 1 of the policy.

3.9 Trial Periods

A trial period maybe necessary in order for the effectiveness of the arrangement to be reviewed.

If the employee requests a trial period, then this will be on the basis that:

- They are short term and enable the line manager to confirm the outcome of the request within 3 months, unless both parties agree to an extended timeframe.
- All parties agreed to undertake the trial.
- All parties should agree in advice the measures of success for the trial period.

If the flexible working arrangements require a change to the employee's employment contract for example change in hours, then a change of circumstance form will be completed and issued. If the arrangement is subject to the completion of a trial period, this condition will be confirmed in writing.

If the trial period is successful, the flexible working arrangements will continue based upon the terms and conditions set out in writing.

If the trial period is unsuccessful, the line manager and the employee should explore whether alternative flexible working options may be accommodated. It is important to ensure that a compromise can be found. If an alternative arrangement cannot be found, then discussions should take place to agree an acceptable way forward which may include the employee reverting to their original working arrangement.

3.10 Review Period

It is important that all agreed informal/formal flexible working arrangements are reviewed as part of the ongoing work of the team. For example, this could be discussed at 1:1's, appraisals and team meetings.

If working arrangements are reviewed on an ongoing basis then there is not a requirement to hold a formal yearly review. If, however, a review is necessary then this should be on the basis that this is necessary to assess the impact of the working arrangement on the delivery of the service, and alternative options may be explored if the working arrangements are required to be adjusted.

Every effort will be made to ensure that all agreed flexible working arrangements will continue. Flexible working arrangements will not be withdrawn unless there has been a significant change to the employee's role, or it has become evident that the service cannot be effectively delivered because of the implications of the flexible working arrangement.

It is important to ensure that all efforts are made to address the impact of changes to a individuals agreed working arrangements, on the individual concerned and the service they provide if it appears that the flexible working arrangement is not working as agreed.

The line-manager must seek advice from HR about what changes might be necessary and what process to follow to implement those changes. Alternative arrangements should be considered, on a trial basis if appropriate.

A change of line-manager will not justify withdrawing a flexible working arrangement.

If, due to service needs, the arrangements cannot continue then an agreed notice period will be given to an employee which is not less than 4 weeks' notice.

All flexible working arrangements should be recorded in writing. If there is agreement to change the type of flexible working utilised, all records must be updated to reflect the amendments.

3.11 Further Requests for Flexible Working Arrangements

As per the NHS Terms and Conditions of Service Handbook, members of staff covered by these provisions can make more than one flexible working request per year and can do so regardless of the reason.

3.12 Withdrawn Applications

Reasons why an application can be treated as withdrawn:

- Withdrawal of an application by the employee: The employee must notify their line manager in writing of their decision to withdraw their application as soon as possible.
- An employee's failure to attend two arranged meetings to discuss an application without reasonable cause will be an automatic withdrawal of the request.
- The employee unreasonably fails to provide the manager with required information related to the request will be constituted as an immediate removal of the application.

3.13 Secondments

For those on internal secondment any requests to work flexibly should be made to their substantive line manager. Any request involving those seconded from an external organisation should only be done with input and agreement from their substantive organisation.

Links to other policies (available on Staffnet and LPT website)

- Maternity, Paternity, Adoption and Parental Leave combined Policy
- Retirement Policy
- Special Leave Policy
- Reasonable Adjustments Policy.

4.0 Duties within the Organisation

Employee

- The employee has the initial responsibility to make a detailed application to their line manager for any change in existing working arrangements in writing using the application form at (Appendix 1).
- Employees are encouraged to outline in their application how the requested working pattern would benefit the service provision and the team procedure and acting in accordance with the Trusts commitment to supporting employees to work flexibly.
- Employees are responsible for identifying any personal financial implications, including any possible effect on their salary, pension and benefits which may arise

from the proposed new working arrangement and seeking independent financial advice where necessary.

- Reading, understanding, and advocating the documents listed in the policy and using the Trusts policies and procedures appropriately to raise any concerns.
- To raise with their manager any concerns they have about being able to effectively manage the balance between their work commitments and home circumstances.
- To attend regular reviews with their manager on an annual basis and keep them informed of any changes in circumstances.

Manager

- Role modelling and advocating a transparent flexible working culture.
- Managers must consider all requests to change existing working patterns either on a temporary or permanent basis in a non-discriminatory manner.
- Ensuring this policy is communicated to all existing workers at team meetings, 1:1's and appraisal discussions.
- Ensuring the policy and procedure is adhered to.
- Ensuring flexible working is discussed at the recruitment and induction stages of employment with all new applicants/starters.
- The manager has a responsibility to ensure that any change in working hours balances the needs of the individuals, service, and other team members.
- Managers must ensure they comply with the Trust policy and relevant legislation relating to applications for flexible working. (this includes reading, understanding, and advocating the documents in the policy)
- Seek advice from the HR advisory team if necessary when considering a request.
- Managers should ensure that employees on flexible working arrangements are included in all activities such as training, team meetings and professional development offered to employees working traditional hours.
- Ensure a change of change of circumstance form is completed as required for changes to contracted hours. This will ensure changes are reflected on ESR to avoid under/over payments.
- Copies of application form (regardless of whether agreed or not) should be kept in the employee's personnel file.
- Being accountable for decisions that do not align with the Trusts' commitment to a flexible and smarter working culture.
- Reviewing the flexible working arrangements as part of the annual Appraisal process.

Human Resources

- Advise on the implementation of this policy
- Provide support and advice to both staff and managers regarding this policy
- advise managers and individuals about the application of the flexible working procedure and work with managers to think broadly and creatively about how flexible working can work within their team.

Staffside Representatives

- Advise and support staff on the implementation of this policy
- Engaging in the development, review and monitoring of this policy
- Assisting members with enquiries about the application of this policy.

Trust Board

- The Trust Board has a legal responsibility for Trust policies and for ensuring that they are carried out effectively
- The Strategic Workforce Group (SWG) has the responsibility for adopting this policy.

5.0 Monitoring Compliance and Effectiveness

Page/ Section	Minimum Requirements to monitor	Process for Monitoring	Responsible Individual /Group	Frequency of monitoring
	Application of this policy to be consistently applied to all staff (new and existing)	Number of grievances received	WDG	Bi-monthly
	Number of approved and non-approved flexible working applications	Monitor the number of applications via managers inputting onto ESR	WDG	Bi-monthly

6.0 Standards/Performance Indicators

TARGET/STANDARDS	KEY PERFORMANCE INDICATOR
Care Quality Commission Regulations for Service Providers Regulation 18 Staffing https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-18-staffing	That the trust maintains compliance with CQC regulations for service providers and managers, this policy supports regulation 18

7.0 References and Bibliography

NHS England Raising the standards for the NHS - https://www.england.nhs.uk/wp-content/uploads/2022/02/B0395-flexible-working-raising-the-standards-for-the-NHS.pdf

Gov.uk Flexible Working - https://www.gov.uk/flexible-working

NELFT NHS Foundation Trust – Flexible working policy

NHS England Flexible Working Toolkit - https://www.england.nhs.uk/publication/flexible-working-toolkit-for-individuals-and-line-managers/

Leicestershire Partnership NHS Trust

Application for Flexible Working

Personal Details

Name:	
Job Title:	
Assignment No.	
Line Manager:	

REQUEST FOR A FLEXIBLE WORKING PATTERN
I would like to apply to work a flexible working pattern that is different to my current working pattern, in line with the Trust's Flexible Working Policy. Your application will be reviewed within the timescales outlined in the Flexible Working Policy.

The information on this form will be used to consider whether your request can be accommodated. You should answer all the questions as fully as possible. If you are unable to answer all the questions, you should discuss them with your manager, and complete them together.
Describe your current working pattern (days/hours/times worked):
Describe the working pattern you would like to work in the future (days/hours/times worked). Please include details as to how your amended working pattern will improve your work/life balance:
I think this change in my working pattern will benefit the Trust and colleagues as follows:

I would like this new working pattern to commence from - Proposed date must be no greater than 3 months from date of application, with the exception of those members of staff on maternity leave who are able to request new working patterns which would be effective from the date of return to work.
Any other comments you would like to help assist your request for flexible working
I understand that the right of application for flexible working does not imply a right to vary my hours and that variation of days/hours/shift patterns is in line with the Trust's Flexible Working Policy. I understand that if my request is agreed then this will be discussed during my 1:1's and appraisal meetings. I understand that any request agreed will require me to be flexible with my working hours to take into account Mandatory and role essential Training, Team building days, and changing service needs.

Name of employee	**Signed**
Employer's Confirmation of Receipt (to be completed and returned to employee)	
I confirm receipt of your flexible working application form on: (date) I shall contact you within the next 5 working days to either accept your request or to arrange a meeting to discuss this application	
Signature (line manager)	**Date**

Please submit this form to your line manager or to be completed via ESR Supervisor self-service.

Copy to be sent to Human Resources at lpt.hradvisoryteam@nhs.net

Appendix 2 Outcome Letter of Flexible Working Request Meeting – Request Granted

Leicestershire Partnership NHS Trust

Dear

Re: Request to Consider Flexible Working

I write further to your meeting on (date). The meeting was arranged to discuss your request to work flexibly due to xxxxx ((**i**.e. child/elder care, medical condition/disability, social, any other etc.).

Your request entailed the following:

- State details of the request/working pattern

Option 1 - Having carefully considered your request, and its impact on the service delivery, I am writing to inform you that we can accommodate your above request.

Or

Option 2 - Having carefully considered your request, and its impact on the service delivery, I am writing to inform you that we can partially accommodate the above request

- State details of the new request
- State what has not been accommodated

This request has been granted for a period of 12 months (or sooner dependent on the needs of the service) when it will be reviewed to consider any impact on service delivery.

The new shift pattern will be operational from (date) when this decision will be implemented in full. Until that time you will need to work with your colleagues to ensure the current rostered is adhered to bearing in mind the provision of staff putting requests for particular shifts or changes occasionally.

If you have any queries in the meantime please do not hesitate to contact me.

Yours sincerely

Name
Title

Copy to Human Resources at Lpt.hradvisoryteam@nhs.net

For all of our key documents and policies, please refer to our LPT website https://www.leicspart.nhs.uk/about/policies/

Appendix 3 Outcome Letter of Flexible Working Request Meeting –Request Rejected

Leicestershire Partnership NHS Trust

Dear

Re: Request to (detail their request here)

I write further to our meeting on ----------. The meeting was arranged to discuss your request to **(give as much detail as necessary**).

Having carefully considered your request, I am sorry to have to inform you that I cannot accommodate it for the following reasons;

- **give a very clear reason linked to one of the following;**

- additional costs
- effect on delivery of service
- inability to re-organise work
- not enough work at the right level at the right time
- effect on quality of service

- **Keep to plain English, and avoid the use of jargon**
- **Only include relevant and accurate facts**
- **Don't make it overly complex or unnecessarily long**

Give details here of any changes to their request that might mean you can accommodate it e.g.

As I indicated at our meeting, if you decide to change the day that you would prefer not to work to one earlier in the week, then I would be happy to reconsider your request.

You have a right of appeal against this decision. To lodge your appeal, you should write to **(give name, job title and address of <u>your</u> manager**), within 10 working days of receipt of this letter. Your letter should include clear reasons for your appeal.

Should you lodge an appeal**, Name of your manager**, will write to you within 5 working days of receipt of your letter, giving you details of a meeting to consider your appeal. You will be given the opportunity to bring a colleague or Staffside representative to the meeting.

If you would like to discuss my reasons for rejecting your request, please do not hesitate to contact me.

Yours sincerely

Name
<u>Title</u>

Copy to Human Resources at Lpt.hradvisoryteam@nhs.net

For all of our key documents and policies, please refer to our LPT website
https://www.leicspart.nhs.uk/about/policies/

Appendix 4 Flexitime and time of in lieu (TOIL) arrangements

Flexitime arrangements enable employees to work an average number of contracted hours per week, but provide flexibility around start, end, and break times. A flexitime system includes set 'core hours' during which the employee must be at work. The core hours will be set by the manager, who will consider the needs of the service and the wider team as well as individuals.

Example flexitime structures:

Flexible hours	**Core hours**	**Flexible hours**	**Core hours**	**Flexible hours**
7.30am – 10am	10am-12pm	12pm – 2pm	2pm – 4pm	4pm – 6pm
Employee may start work during these times	Employees must work	Employees can flex the length of their break, but must take at least 30mins	Employees must work	Employee may finish work during these times

Employees working a flexitime system can vary their start and finish times within these parameters to suit individual preferences and requirements, however the needs of the service must be considered, and employees may need to agree a normal starting and finishing time with their manager.

Employees working flexitime must take breaks during their working day, in accordance with the Working Time Regulations 1998 and normal Trust practices.

Recording flexitime / hours worked

Employees working flexitime must record their hours working on a flexi-sheet (available on StaffNet) to ensure that they keep track of hours worked and flexi-sheets must be sent to the manager for checking at the end of each month.

All authorised absences from work (sickness, study leave, annual leave, special leave) should be recorded as the normal hours for a typical working day on the flexi-sheet.

Example: A employee contracted to work 37.5 hours a week over 5 days would record 7.5 hours on the flexi-sheet when on authorised absences.

Managing Credit (TOIL) or Debit Hours

To support their health and wellbeing, employees are encouraged to maintain regular working hours. However, it is recognised that employees may accrue additional hours and need to take time off in lieu [TOIL] or have months where they have not worked their normal average hours. **Where employees are accruing TOIL or working less than their expected hours, this should be agreed with their manager in advance to ensure that the needs of the service are being met.**

The maximum **DEBIT** or **CREDIT** hours which can be carried forward at the end of each month is **10 hours** and managers should ensure that they are checking flexi-sheets regularly to ensure that employees are not accruing excess credit or debit hours.

1. **Carrying forward accrued hours [TOIL]–** where an employee has accrued additional hours, the manager and employee should agree when the TOIL can be taken. Where sufficient time has been accrued, employees can take half or full days off, with their manager's agreement.

If an employee has accrued excess hours at the request of their manager due to service needs, then the manager may agree for these additional hours to be taken back or – in exceptional circumstances – it may be appropriate to agree appropriate payment for hours worked, in accordance with NHS Terms and Conditions.

2. **Carrying forward debit hours** – where an employee has accrued debit hours, the manager and employee should agree how the time will be worked back by the employee or if the employee would prefer to use annual leave hours to cancel out the debit hours.

   Both managers and employees have a responsibility to ensure that credits or debits of more than 10 hours are not accrued.

3. **Managing Credit or Debit on resignation/termination of employment** – where employees are in debit, the debit hours will be deducted from outstanding annual leave or their final salary, if all annual leave has been taken. Where an employee is in credit, payment will be made for additional hours worked.

   However, wherever practically possible, employees should be supported to take TOIL or work back debit hours during their notice period.

Managers are responsible for;

- Communicating the details of the flexitime arrangements and ensuring that their employees work within the guidelines.
- Regularly reviewing flexitime arrangements and ensuring they meet the needs of the service/department.
- Checking flexi-sheets and ensuring that team members are managing time appropriately and in accordance with service needs.
- Ensuring that flexitime arrangements are included as a benefit in adverts and recruitment material, as part of the offer letters and in the employment contract.

Employees are responsible for:

- Observing the flexitime guidelines.
- Accurately recording hours worked on their flexi-sheet and submitting it to their manager monthly.
- Agreeing working hours with colleagues and their manager, to ensure the needs of the service are met.
- Within reasonable limits, responding flexibly for requests to change normal arrangements when workload or service needs demand.

Eligibility for flexitime

- Flexitime is more typically applicable to full or part time staff working conventional ‘9am – 5pm’ type working days and generally is not possible in areas where there are specific working patterns (such as shifts) or areas where there are insufficient staff numbers for flexitime to work as intended. However, this does not preclude staff with other working patterns discussing the option of flexitime with their manager.
- Employees at Band 8A and above are not included in flexitime schemes, however they can discuss other forms of flexible working arrangements with

their manager and – as with all employees - they are entitled to submit flexible working requests under this Policy.

Appendix 5 Training Needs Analysis

Training Needs Analysis

Training topic:	Flexible Working
Type of training: (see study leave policy)	✓ Role specific
Directorate to which the training is applicable:	✓ Adult Mental Health ✓ Community Health Services ✓ Enabling Services ✓ Families Young People Children / Learning Disability Services ✓ Hosted Services
Staff groups who require the training:	Managers
Regularity of Update requirement:	One-off
Who is responsible for delivery of this training?	Human Resources
Have resources been identified?	Yes
Has a training plan been agreed?	Will be delivered as part of 'Essential HR for Managers' training
Where will completion of this training be recorded?	✓ ULearn ☐ Other (please specify)
How is this training going to be monitored?	Through Directorate Workforce Groups

Appendix 6 The NHS Constitution

- The NHS will provide a universal service for all based on clinical need, not ability to pay.
- The NHS will provide a comprehensive range of services.

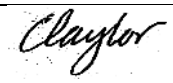
Shape its services around the needs and preferences of individual patients, their families and their carers	☐
Respond to different needs of different sectors of the population	☐
Work continuously to improve quality services and to minimise errors	✓
Support and value its staff	✓
Work together with others to ensure a seamless service for patients	✓
Help keep people healthy and work to reduce health inequalities	✓
Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance	☐

Appendix 7 Due Regard Screening Template

Section 1	
Name of activity/proposal	Flexible Working Policy and Procedure
Date Screening commenced	December 2023
Directorate / Service carrying out the assessment	Human Resources and Organisational Development
Name and role of person undertaking this Due Regard (Equality Analysis)	Nilam Daji, Senior HR Advisor
Give an overview of the aims, objectives and purpose of the proposal:	
AIMS: Provide the opportunity for all staff to work flexibly using the widest range of flexible working options, whilst maintaining high quality services to all service users. High quality flexible working arrangements are an important component of helping staff maintain a positive balance between their work and personal lives and are a cornerstone of the Trusts people friendly policies. The NHS People Plan which aims 'through a combination of technology and a change in people practices, to give people greater choice over their working patterns, help them achieve a better work-life balance, and help the NHS remain an active career choice'.	
OBJECTIVES: To ensure the policy meets the requirements of the Employment Rights Act 1996, the Children and Families Act 2014 and the Flexible Working Regulations 2014. In addition, the Equality Act 2010 recognises the concept of 'associative' discrimination in relation to age and disability. Employees who are carers therefore have a legal right not to be discriminated against because of association with disability or age. This may be relevant to some flexible working applications.	

Section 2	
Protected Characteristic	If the proposal/s have a positive or negative impact please give brief details
Age	Positive impact on all protected characteristics as this policy applies to all staff
Disability	As Above
Gender reassignment	As Above
Marriage & Civil Partnership	As Above
Pregnancy & Maternity	As Above
Race	As Above
Religion and Belief	As Above
Sex	As Above
Sexual Orientation	As Above
Other equality groups?	As Above

Section 3	
Does this activity propose major changes in terms of scale or significance for LPT? For example, is there a clear indication that, although the proposal is minor it is likely to have a major affect for people from an equality group/s? Please tick appropriate box below.	
Yes	No ✓
High risk: Complete a full EIA starting click here to proceed to Part B	Low risk: Go to Section 4. ✓

Section 4			
If this proposal is low risk please give evidence or justification for how you reached this decision:			
This policy is accessible and supports all staff which also give's people greater choice over their working patterns, helping them achieve a better work-life balance.			
Signed by reviewer/assessor		Date	4/12/2023
Sign off that this proposal is low risk and does not require a full Equality Analysis			
Head of Service Signed		Date	6/12/2023

Appendix 8 Data Privacy Impact Assessment Screening

Data Privacy impact assessment (DPIAs) are a tool which can help organisations identify the most effective way to comply with their data protection obligations and meet Individual's expectations of privacy. The following screening questions will help the Trust determine if there are any privacy issues associated with the implementation of the Policy. Answering 'yes' to any of these questions is an indication that a DPIA may be a useful exercise. An explanation for the answers will assist with the determination as to whether a full DPIA is required which will require senior management support, at this stage the Head of Data Privacy must be involved.

Name of Document:	**Flexible Working Policy and Procedure**	
Completed by:	**Nilam Daji**	
Job title	**Senior HR Advisor**	**Date 4th December 2023**

Screening Questions	**Yes / No**	**Explanatory Note**
1. Will the process described in the document involve the collection of new information about individuals? This is information in excess of what is required to carry out the process described within the document.	**No**	
2. Will the process described in the document compel individuals to provide information about them? This is information in excess of what is required to carry out the process described within the document.	**No**	
3. Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information as part of the process described in this document?	**No**	
4. Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?	**No**	
5. Does the process outlined in this document involve the use of new technology which might be perceived as being privacy intrusive? For example, the use of biometrics.	**No**	
6. Will the process outlined in this document result in decisions being made or action taken against individuals in ways which can have a significant impact on them?	**Yes**	Part of a formal process to appropriately manage an individual's employment.
7. As part of the process outlined in this document, is the information about individuals of a kind particularly likely to raise privacy concerns or expectations? For examples, health records, criminal records or other information that people would consider to be particularly private.	**Yes**	Part of a formal process to appropriately manage an individual's employment.
8. Will the process require you to contact individuals in ways which they may find intrusive?	**Yes**	Part of a formal process to appropriately manage an individual's employment.

If the answer to any of these questions is 'Yes' please contact the Data Privacy Team via Lpt-dataprivacy@leicspart.secure.nhs.uk
In this case, ratification of a procedural document will not take place until review by the Head of Data Privacy.

Data Privacy approval name:	**Sarah Ratcliffe**
Date of approval:	**29/12/2023**

Acknowledgement: This is based on the work of Princess Alexandra Hospital NHS Trust