



**Workforce**

## **Flexible Work Pattern Policy: guide for managers**

This guide will help managers to understand the Flexible Work Pattern Policy. The policy provides a framework to support:

- employees, when considering and requesting options for a flexible work pattern
- managers when considering, agreeing, or proposing options for a flexible work pattern

The following guide forms part of the standard for workforce policies. These policies apply to all eligible staff within NHSScotland, regardless of the board they are employed by.

NHSScotland wants to create an inclusive workplace where employees can thrive and feel confident about their ability to balance their personal and professional responsibilities.

It is recognised that policies to support this are particularly important in NHSScotland, given the predominantly female workforce who largely take on primary caring roles within the family. The guide covers:

<b>What is the purpose of the Flexible Work Pattern Policy? .....</b>	<b>4</b>
<b>Possible benefits .....</b>	<b>4</b>
<b>Who is covered by this policy?.....</b>	<b>4</b>
<b>Flexible work pattern request .....</b>	<b>4</b>
Initial conversation.....	5
Receiving a flexible working request .....	5
Considering an employee request .....	6
Suitability.....	6
Safety.....	6
Practicalities .....	6
Contractual issues.....	6
Agreeing a flexible work pattern request .....	7
Refusal of a flexible work pattern request.....	7
<b>Appeal process .....</b>	<b>8</b>
Appeal outcome .....	9
<b>Withdrawal of application.....</b>	<b>9</b>
<b>Flexible work pattern review .....</b>	<b>9</b>

<b>Types of work pattern .....</b>	<b>10</b>
Annualised hours .....	10
Calculating annualised hours .....	11
Designing the system .....	11
Compressed hours .....	11
Flexi-time .....	11
Job share .....	12
Sharing of duties .....	12
Selection procedure .....	13
Termination or resignation.....	13
Reduced working year.....	13
Designing the system .....	13
Calculating a reduced working year .....	14
Full-time example .....	14
Part-time example .....	15
Self-rostering.....	16
Designing the system .....	16
Temporary reduced working hours .....	16

# What is the purpose of the Flexible Work Pattern Policy?

The Flexible Work Pattern Policy provides a supportive and person-centred response for employees who request changes to their work pattern to achieve this balance. Employees have a statutory right to request flexible working. The Flexible Work Pattern Policy provides the framework to let this happen.

## Possible benefits

A flexible work pattern should bring benefits for the organisation and employees. These may include:

- increased commitment from employees, leading to greater productivity
- better work and life balance
- supporting a diverse workforce, for example, staff with disabilities or caring responsibilities
- attracting a wider pool of candidates
- improved employee retention
- positive staff experience
- improved staff health and wellbeing
- financial benefits for the organisation
- reduce travel at peak times
- supporting employees with long-term health conditions

## Who is covered by this policy?

This policy applies to all employees from their first day of employment.

## Flexible work pattern request

An employee can request to work flexibly by changing one or more of the following:

- hours
- times they work
- [place they work](#)

A request can be made or approved on a permanent or temporary basis. You and the employee may wish to consider a trial period.

It is recognised that not all roles within NHSScotland are appropriate to be delivered on a flexible work pattern basis. There will need to be an initial consideration of whether a role can be performed more flexibly. Flexible work patterns can be considered as part of service or role redesign.

An employee may request flexible working as a reasonable adjustment for a disability. Although all employees have a statutory right to request flexible working, there is an additional legal requirement to consider reasonable adjustments on the basis of disability. In such cases, you may wish to take advice from occupational health.

To calculate the impact that a change to working hours may have on gross pay before deductions, use the [Changing working hours calculator](#).

## **Initial conversation**

When an employee has indicated that they wish to request a change of work pattern, you should arrange to have an initial conversation with them. This conversation is an opportunity to explore the various issues related to the employee's role. It is not to be used to pre-determine the outcome of any formal request that is then submitted. If the request is a small-scale change which does not have wider impact, it may be possible to implement this without following the full application process.

Managers should inform employees to contact the Scottish Public Pensions Agency to obtain advice on any impact on their pension benefits.

## **Receiving a flexible working request**

When an employee request is received, you should make sure the employee has completed a [Flexible working request form](#).

As a manager, you should review this along with other available information, which may include:

- job description
- standard operating procedures
- risk assessments
- existing work patterns within the team

You should acknowledge receipt of the flexible working request form within 7 calendar days. You should arrange a meeting and discuss this with the employee within 14 calendar days.

## **Considering an employee request**

An employee's request for flexible working should be supported where possible. The employee can make 2 flexible work pattern or location requests within 12 months. A manager should only refuse a request for valid service or organisational reasons.

Requests for a different work location may be linked to a request to change working hours. You should consider the location request first. If an agreement is reached with the employee, you should then consider their flexible work pattern request.

The roles and responsibilities section of the policy sets out areas all parties must consider as part of a flexible work pattern request or review. As a manager, you should consider the following.

### **Suitability**

Can the duties be delivered in the proposed work pattern? Can the work pattern be accommodated within the service without impacting on others?

### **Safety**

Are there any health, safety or wellbeing concerns for the employee or their colleagues by the proposed work pattern? For example, lone working.

### **Practicalities**

How will clear communication lines be established and maintained to support and manage the employee within the team? How can the team be supported to continue to deliver work effectively? How will the employee access learning support from peers?

### **Contractual issues**

You should make the employee aware of the implications and potential loss of any contractual rights before agreeing to a change in hours. For example, if they reduce their hours, this will have an [impact on their pay](#). If a change in work pattern involves a change in hours, this will affect how much [annual leave and public holidays they will be entitled to](#).

## Agreeing a flexible work pattern request

When the manager and employee agree to a change, both parties should sign a [Flexible work pattern agreement](#). If the employee's terms and conditions change due to the agreement, it is a contractual change. You must make sure the relevant HR systems are updated.

As the manager, you should make sure the employee is aware of the terms of the agreement. All legislative requirements continue to apply, such as the working time regulations. The rest and hours requirements common to all staff groups are summarised in [the Agenda for Change handbook \[PDF\]](#). The employee must inform their manager of any concerns or changes in personal circumstances at the earliest opportunity.

A change of work pattern may require a more flexible approach to the working arrangements. It requires a level of trust between you and the employee, given the potential change to supervision arrangements.

## Refusal of a flexible work pattern request

An employee's request for a flexible work pattern should be supported where possible.

You should only refuse a request for valid service or organisational reasons such as:

- adverse impact on service delivery or quality
- adverse impact on work colleagues
- health, safety, and wellbeing considerations

Acceptable legal reasons for turning down a request are:

- extra costs that will damage the organisation
- the work cannot be reorganised among other staff
- people cannot be recruited to do the work
- flexible working will affect quality and performance
- the organisation will not be able to meet patient demand
- there's a lack of work to do during the proposed working times
- the organisation is planning changes to the workforce

Where you are unable to agree to the employee's request, you must confirm your decision in writing within 7 calendar days of the meeting. The outcome letter must include the following:

- the reasons for not agreeing to the request, detailing the rationale for the decision
- an outline of any points and alternative options discussed
- the employee's right to appeal the decision within 14 calendar days
- who the employee should write to detailing the grounds for their appeal

The appropriate manager to receive the appeal would usually be your manager. Please refer to the Scheme of delegation principles.

## **Appeal process**

The employee has a right to appeal the decision within 14 calendar days of receiving the outcome letter. The employee must provide the reason for their appeal in writing.

It would normally be your manager who will hear the appeal, supported by an HR adviser who has not been involved in the process to date. They will inform the employee that their appeal has been received.

The appeal panel will consider the following:

- the reasons you gave for refusing the request
- any alternative options explored
- other points discussed and documented in the outcome letter

The Chair will make sure you and the employee are advised in writing of the arrangements for the hearing no later than 14 calendar days before the hearing date.

As the manager, you must provide a written statement detailing your considerations and decision. If the employee has not done so, they should provide their case document. These documents should be submitted no later than 7 calendar days before the appeal hearing. They will be shared with all other parties.

The hearing and outcome must take place within 2 months of the application being submitted.

## Appeal outcome

Following the hearing, the Chair will write to all parties with the outcome of the appeal hearing. This letter will be issued within 7 calendar days following the appeal hearing.

If the appeal is successful, the outcome letter will specify the agreed changes and the date these will take effect. As the manager, you will be responsible for completing the [Flexible work pattern agreement](#). If the employee's terms and conditions change due to this agreement, it would be a contractual change. You must make sure the relevant HR systems are updated.

Where the appeal is unsuccessful, the outcome letter will provide a clear and detailed explanation of the reasons for the decision. The outcome of the appeal will be final for this application.

## Withdrawal of application

The organisation will treat an application as withdrawn if the employee has:

- notified you in writing or by email that they are withdrawing their application
- failed, without reasonable cause, to attend a meeting or an appeal hearing convened under the procedure on more than one occasion
- refused, without reasonable cause, to provide information which is necessary to assess the application

As the manager, you should write to the employee to confirm the withdrawal of their application.

## Flexible work pattern review

At least once a year, you should review the employee's flexible work pattern arrangements. Where the employee's home is one of their work locations, you should refer to the [Flexible Work Location Policy](#).

In addition, you should formally review the agreement every 2 years. This is to allow you to review the employee's situation and consider other employee requests which may have been submitted in the previous 2 years. By taking this approach, the aim is to make a change in work pattern more accessible to all.

For medical and dental staff, the review could form part of the job planning process. For all other employees, it could form part of the appraisal process.

An employee or manager can request a review at any point. A review should also take place where circumstances or requirements change.

The review of working arrangements should also cover points described under considering an employee request. In addition, you and the employee should explore and discuss:

- physical and mental wellbeing, which may include any agreed 'check-in' times with your employee
- any change in personal circumstances, health, or domestic arrangements
- requirements of the job role, workload, and any impact on work-life balance

Where the employee is requesting a change through the review process, you should ask them to complete a new [Flexible working request form](#).

Where the agreement is being ended, you should discuss with the employee and agree a reasonable period of notice of the date of the change to their work pattern. Where agreement cannot be reached, you should give 3 months' notice of the change.

## Types of work pattern

The examples below may not be practical for all working environments, service needs, existing shift patterns, and staff numbers.

If, as a manager, you are considering the implementation of a different type of work pattern, rather than considering a request, you should follow your local organisational change policy.

## Annualised hours

Annualised hours is when an employee is contracted to work a yearly total of hours rather than a weekly total. This can allow for greater flexibility in managing workload demand.

Annualised hours can work well in areas with fluctuating demand. For example, seasonal demands may include additional hours needed for winter pressures or snow clearing.

Matching staff to when demands are highest can reduce bank usage or overtime. It also assists in financial planning for the manager and the employee, as the employee receives a fixed monthly salary regardless of hours worked.

The employee's working pattern can consist of fixed and unallocated shifts, offering flexibility and some forward planning. With reasonable notice, unallocated shifts can be used for surges in demand.

## **Calculating annualised hours**

The annual number of hours to be worked is calculated by multiplying the number of weekly contracted hours by 52.143. For example, a full-time employee contracted to work 37 hours would work 1929 hours on an annualised hours contract, less their annual leave and public holiday entitlement.

## **Designing the system**

Agreement will be needed on the following issues:

- number of hours that will be rostered and un-rostered
- maximum and minimum number of hours that can be worked each week
- maximum working hours per week are within the 48 hours set by the working time regulations
- what is considered reasonable notice for standing staff up to cover un-rostered shifts or down where they are no longer required
- level of credit given for staff who are stood down
- if on-call is required
- number of credit or debit hours which can be carried over to the next year
- method of recording the number of hours worked by each member of staff and the cumulative totals

## **Compressed hours**

Compressed hours is a working pattern where employees complete their contracted hours within fewer working days. For example, they may work 37 hours over 4 days instead of 5 days.

## **Flexi-time**

Flexi-time is a system where employees can choose when they work within agreed parameters. This is subject to working an agreed number

of hours over a specified reference period, which is often 4 weeks. Consideration should be given to whether there is a core period of the day when employees must be at work. A maximum number of additional hours can be worked during the period, and the timescale within which the hours are to be taken should be agreed upon. Employees should be allowed to carry over a specified debit or credit of hours between reference periods. The employee's request for when they wish to take the hours back should be authorised by the manager.

## **Job share**

Job-sharing is a form of part-time working where 2 or more people share the responsibility for a job in a structured way.

## **Sharing of duties**

When considering how the post can be shared, the following should be taken into account:

- sharing duties and responsibilities of a post may take several forms, and the aim in all cases is finding the most efficient means of operation
- division of work may be into projects, tasks, patient group, or hours
- although the duties are divided, the overall responsibility must be shared
- one job-share partner should not be able to control the split of work
- job-share partners should be able to demonstrate that, at some time, each has fulfilled the duties and responsibilities of the whole post
- each job-sharer is responsible individually for the satisfactory performance of their own duties
- job-share partners are not responsible for their co-workers' conduct and capability, and they will be treated as individuals for any associated procedures
- hours should be organised to suit both the service and the employees
- hours, days, and weeks agreed with the job-share partners should be attractive to applicants if one of the partners leave
- normal notice periods apply

## **Selection procedure**

Where a job share request is agreed in principle, the postholder will continue working their contracted hours until a job share partner is found. Recruitment for a job-share partner should follow normal recruitment procedures.

If a job-share appointment to the “part” vacancy cannot be made within 3 months from the day of the first advertisement, it cannot be progressed. The postholder will remain in their current contracted hours.

## **Termination or resignation**

If one of the job-share partners leaves, consideration should be given to whether full-time hours are still required. If so, the vacancy should be offered to the other partners. If the individual cannot take up these hours, the hours will be advertised.

If the job-share appointment cannot be made within 3 months of advertising, it cannot be maintained. Attempts would be made to redeploy the remaining job sharer into another suitable post.

Part-time is where an employee is contracted to work less than the recognised full-time hours.

## **Reduced working year**

A reduced working year is a work pattern with agreed periods when the employee does not work. The salary of the post is reduced proportionately to the hours worked but continues to be paid during non-working parts of the year. An example of a reduced working year is a term-time contract.

## **Designing the system**

Agreement will be needed on the following issues:

- when the employee will take their contractual entitlement to paid annual leave
- whether the employee wishes to retain a maximum of 5 days' contractual annual leave to be taken with prior notice at times out with non-working periods
- how much additional unpaid leave is required to cover the non-working period

## Calculating a reduced working year

Pay calculations should be made at the start of the reduced working year agreement. It is important to make sure staff receive their statutory entitlement to 5.6 weeks' annual leave. Comparison with a non-reduced working year employees is required. Calculations in days relate to a 5-day employee. Hours have been added after the calculation in days to demonstrate the hours equivalent for staff covered by Agenda for Change. Information on annual leave entitlement by hours is available in the [relevant circular](#).

### Full-time example

The employee requesting a reduced working year is a full-time employee with 7 years of service. They wish to work 39 weeks per year.

### Year-round employee

The number of days available annually is 260.71 ( $365 \div 7 \times 5$ ) [1929.254 hours]. The annual leave comprises:

Basic annual leave      29 days [214.6 hours]

Public holidays            8 days [59.2 hours]

**Total leave                      37 days [273.8 hours]**

Year-round employees with this leave entitlement work 223.71 days a year (260.71 minus 37)[1655.454 hours per year (1929.254 minus 273.8 hours) in order to produce a paid leave entitlement of 37 days [273.8 hours].

**Each working day, therefore, accrues 0.1654 days of paid annual leave** (37 divided by 223.71)[273.8 divided by 1655.454].

### Reduced working year employee

The reduced working year employee works 39 weeks, which is 195 working days [ $39 \times 5 = 195$  days].

Paid leave accrues 0.1654 days of leave for every day worked, so the paid leave entitlement should be  $195 \times 0.1654 = 32.253$  days [1443 x 0.1654 = 238.6722 hours].

The number of paid days (working days plus paid leave) per year should, therefore, be  $195 + 32.253 = 227.253$  total paid days per year [1443 + 238.6722 = 1681.6722 total hours per year], compared with 260.71 paid days [1929.254 hours] for a year-round employee.

This can be expressed as a percentage of the all-year-round contract: 227.253 divided by 260.71 [1681.6722 divided by 1929.254] = **87.167% of the WTE.**

The reduced working year employee should, therefore, receive 87.167% of the full-time equivalent pay.

## **Part-time example**

The employee requesting a reduced working year is a 14.8-hour employee with 7 years of service. They wish to work 39 weeks per year. The initial calculations are the same as for a full-time employee.

## **Year-round employee**

The number of days available annually is 260.71 ( $365 \div 7 \times 5$ ) [1929.254 hours]. The annual leave comprises:

Basic annual leave      29 days [214.6 hours]

Public holidays          8 days [59.2 hours]

**Total leave              37 days [273.8 hours]**

Year-round employees with this leave entitlement work 223.71 days a year (260.71 minus 37)[1655.454 hours per year (1929.254 minus 273.8 hours)] in order to produce a paid leave entitlement of 37 days [273.8 hours].

**Each working day, therefore, accrues 0.1654 days of paid annual leave** (37 divided by 223.71)[273.8 divided by 1655.454].

## **Reduced working year employee**

The reduced working year employee works 39 weeks, which is 195 working days [ $39 \times 7 = 1443$  hours].

Paid leave accrues 0.1654 days of leave for every day worked, so the paid leave entitlement should be  $195 \times 0.1654 = \mathbf{32.253 \text{ days [1443} \times 0.1654 = 238.6722 \text{ hours]}}$ .

The number of paid days (working days plus paid leave) per year should, therefore, be  $195 + 32.253 = 227.253$  total paid days per year [ $1443 + 238.6722 = 1681.6722$  total hours per year], compared with 260.71 paid days [1929.254 hours] for a year-round employee.

$227.253 \text{ paid days} \times 7.4 \text{ hours} = \mathbf{1681.6722 \text{ paid hours per year}}$  for a 39-week reduced working year employee working full-time hours work pattern.

To calculate the pay for a 14.8-hour employee -  $1681.6722 / 37 \text{ hours} \times 14.8 \text{ hours} = 672.67$  **paid hours per year** for a reduced working year employee working 14.8 hours a week.

For a year-round full-time employee, total paid time = **260.71 days x 7.4 hours = 1,929.254 hours.**

**Combined pro-rata calculation =  $672.67 \div 1929.254 = 34.87\%$**

The employee should, therefore, receive 34.87% of the salary of a full-time year-round employee.

## **Self-rostering**

Self-rostering is an arrangement where team members schedule their shifts while maintaining agreed service levels.

Self-rostering is a system which can allow staff more control over their shifts to increase flexibility and support retention. This relies on the system design to make sure personal needs are balanced with service requirements.

## **Designing the system**

Agreement will be needed on the following issues:

- minimum and maximum staff levels for each hour of the day
- skill, grade and, if necessary, gender mix, hour by hour
- “core” hours
- preferences for hours to be worked by each member of the team
- protected time periods for each member of the team when they specifically do not want to work
- limits as to how much time owed or time owing can accrue to each team member

## **Temporary reduced working hours**

Temporary reduced working hours allows employees to request a reduction in their contracted hours for a temporary period.

Requests for a temporary reduction in working hours can be for a number of different reasons. Examples include caring responsibilities or partial retirement. During this period, the employee will be paid at the reduced hours but retain the right to return to their previous working pattern.