



# Flexible working: Raising the standards for the NHS

20 January 2022 Version 1

## Introduction

The NHS People Plan 2020 (*We are the NHS: People Plan for 2020/2021 – action for us all*) rightly puts our people at the front and centre of the NHS, including those working in primary and community care. Here, we set out a preliminary definition and set of principles for flexible working. They are intended to be aspirational and take one of our first steps towards making the People Plan commitments a reality. The definition aims to support the shared and common understanding of flexible working that we need to achieve fair, equitable and consistent practice. The principles look to guide the ethos and values that should make flexible working become ‘simply how we work’ in the NHS. The principles form a foundation for flexible working, and organisations are encouraged to innovate and test out approaches to support the embedding of flexible working.

We know that many NHS organisations have flexible working policies and as such feel as if they are already offering flexible working options. However, we also know from the NHS Staff Survey, that many people still feel unsatisfied with their opportunities for flexible working, despite the existence of these policies. We also know that staff often cite ‘work-life balance’ as a reason for leaving the NHS, which may in part recognise that our people don’t feel that they have the flexibility they need to achieve the right balance for them. There is an ambition in the NHS to go beyond the minimum statutory requirements to push the boundaries and enhance the culture around flexible working. These ambitions are outlined in our set of ten principles below and we would encourage organisations to adopt and embed them as standard practice.

The definition and principles are relevant to all individuals as defined below. They are intended as complementary to the NHS Terms & Conditions of Service Handbook and the

supporting guidance produced by the NHS Staff Council. This document can also act as a source of guidance for wider providers of NHS-funded services, such as general practice, community pharmacy or dental services, whilst appreciating that local terms and conditions may vary.

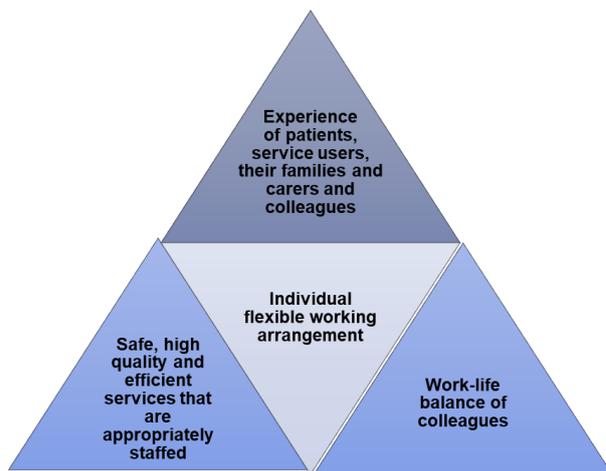
For simplicity, the term ‘manager’ is used throughout to refer to those who have direct managerial or educational responsibility for a particular individual. This may include, but is not limited to, line managers, supervisors and trainers. The term “individual” is used to refer to employees and workers on a permanent or fixed term NHS Senior Manager, Agenda for Change and Medical & Dental contracts within England.

**While we fully expect all NHS organisations to embrace and work towards implementation of the definition and principles, this document is not statutory guidance and is not intended to create new or additional legal obligations on organisations.**

## **Defining flexible working**

1. The NHS defines 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.
2. You may hear the terms flexible working, agile, smart and remote working used interchangeably and they can mean different things to different people. For clarity and consistency, the term flexible working and the definition described above has been used throughout this document.
3. Good flexible working arrangements should balance the needs of the individual with three key organisational factors; patient/service user and staff experience, service delivery and work-life balance of colleagues (figure 1).

**Figure 1: A good flexible working arrangement balances three key considerations with the individual arrangement**



4. Flexible working arrangements may be informal or formal, be implemented in shift/session and non-shift/session-based roles and put in place on a short or long-term basis. It is good practice to capture conversations about informal and formal flexible working arrangements in writing. Some arrangements may require a variation to the individual's contract.

#### **4.1 Informal flexible working arrangement**

These arrangements are usually agreed between the individual and their line manager (or equivalent) as and when needed and don't normally require a formal contractual change. Examples of informal arrangements could include:

- Swapping shifts/sessions
- Mixing shifts/sessions (e.g. working some long and some short shifts/sessions)
- Time off in lieu (TOIL)
- Flexi-time
- Staggered hours where start, finish and lunch/break times can be variable (usually set around a period of 'core hours')
- Working from home (a role in which the individual has a defined office base but can work at home for part of their working week).

#### **4.2 Formal (contractual) flexible working arrangement**

These arrangements may initiate a change to an individual's contract as they can have an impact on pay, pension and/or annual leave calculations or have corporate governance implications. As such, an HR representative (or equivalent management

personnel) should be consulted before any changes to an agreed working arrangement is made. Examples may include:

- Part time hours
- Job sharing
- Annualised hours
- Zero-hours contract
- Compressed hours
- Term-time working
- Fixed shifts/sessions/schedules (individuals work days only)
- Rotating shift/session work (individuals rotate between different patterns, such as days and nights)
- Split shift/session schedules (where an individual's working day is split into two or more parts with a rest period between. The rest period does not include paid breaks or allocated lunch periods)
- Phased retirement
- Home working (a role in which the individual spends all their working week based at home)
- Mobile working (teleworking) which enables the individual to work from a different location for all or part of their working week
- Sabbaticals.

#### **4.3 Shift/session-based role**

A shift/session-based role (or job) refers to a work schedule in which an individual regularly works some or all of their working week **outside of the organisation's defined core business hours**. Shift/session-based work schedules may be fixed or rotational, and may cover morning, afternoon, evening and nights in addition to on-call activities. On-call, out of hours or standby activities are those where individuals are expected to be available for work outside of their regular hours, sometimes at short notice.

#### **4.4 Non-shift based role**

Individuals in non-shift-based roles normally work most of their contracted hours within the organisation's defined core business (traditionally seen as Monday to Friday, 9am to 5pm). These include roles where an individual has an on-call commitment (as defined in section 4.3) but doesn't work outside of office hours for most of their normal working week.

#### **4.5 Short-term flexible working arrangement**

A temporary working arrangement which is put in place to cover emergency and/or unplanned events. These arrangements are not expected to last more than 28 calendar days (e.g. to manage an urgent change in childcare arrangements, or to repair a broken boiler). Short-term requests are normally agreed between the individual and their line-manager.

#### **4.6 Long-term flexible working arrangement**

A working arrangement which is expected to occur on more than one occasion and/or be in place for 29 or more calendar days. Long-term requests are more likely to be a formal arrangement and are normally agreed by line-managers. They may, when needed, involve consultation with an appropriate HR (or equivalent management personnel) and union representatives.

### **Principles for flexible working**

1. Individuals should have an opportunity to request to work flexibly from day one of employment. Flexible working opportunities should be offered at all stages in a career, regardless of role, grade, or the reasons for wanting to work flexibly.
2. Not all roles are suitable for every flexible working opportunity and may not facilitate a flexible working arrangement all the time. Requests for flexible working are therefore considered on a case-by-case basis.
3. Job roles across the NHS are designed and advertised in ways that promote the most flexible appropriate working opportunities, with organisations initiating conversations about flexible working from advert through to each stage of an individual's working life.
4. All requests for flexible working should be considered on individual merit. Managers should particularly have due regard for applications where the individual has additional protections from the Equality Act 2010 (for example, to meet childcare needs, as an adjustment to support a disability or to meet religious requirements).
5. Individuals, managers and teams work together to explore the flexible working options that are available and seek a practical arrangement which supports the individual while:
  - Providing the best experience for patients/service users, their families and carers.
  - Maintaining safe, high quality, efficient services that are appropriately staffed.
  - Maintaining the work-life balance of colleagues.
6. Those who have an agreed flexible working pattern should not be treated any less favourably in terms of pay rates, selection for promotion etc than colleagues who do not

work a flexible working arrangement. Any adjustments to pay and benefits should be pro-rated that of a full time individual.

7. Managers look to saying 'yes' to a flexible working request whenever they can. Organisations, networks, teams and managers are encouraged to collaborate to think creatively about flexible working solutions, and trial different flexible working options to identify what works best.
8. Managers recognise that legislation enabling one flexible working request to be made in a 12-month period may not always be in harmony with the changes taking place in an individual's personal and professional life. The approach to making and granting flexible working arrangements should be a collaborative one between individuals and their manager. If an individual's first request for flexible working is declined, the individual should be supported to review their request and consider alternative arrangements consistent with any previous feedback. This approach should minimise repeated applications and the disappointment that might accompany any refusals.
9. Managers and individuals jointly agree review periods and discuss flexible working as part of regular health and wellbeing conversations to consider whether any additional alternative arrangements are needed to meet the needs of the individual and the business.
10. As flexible working agreements (including those put in place to support parental and caring responsibilities) may be subject to change, individuals and managers should agree how any changes should be planned, communicated and implemented.

## **Next steps**

We encourage organisations to review their existing flexible working policies in light of these definitions and principles. You may also wish to work in partnership as a local system to develop a strategic approach to embedding these principles across your organisation.

For NHS employers, NHS Staff Council amended the NHS Terms and Conditions, Section 33: Flexible Working to reflect the ambitions of the People Plan in September 2021. The changes include enabling those on these terms to request flexible working from day one of employment.

NHS England and NHS Improvement will continue to support you in developing your approach through webinars, training and materials. We will also continue to showcase what good practice looks like through sharing case studies and hearing from other areas of good practice.

Find out more on our [We Work Flexibly](#) pages.