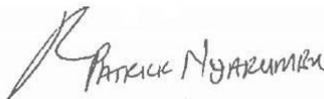




FLEXIBLE WORKING POLICY

Policy number and category	HR 12	Human Resources
Version number and date	6	July 2025
Ratifying committee or executive director	Transforming Our Culture and Staff Experience Committee	
Date ratified	July 2025	
Next anticipated review	July 2028	
Executive director	Executive Director of Strategy People and Partnerships	
Policy lead	People Partner	
Policy author <i>(if different from above)</i>	As Above	
Exec Sign off Signature (electronic)		
Disclosable under Freedom of Information Act 2000	Yes	

POLICY CONTEXT

- Birmingham and Solihull Mental Health Foundation Trust recognises the importance of a work-life balance for employees and supports current legislation in relation to the right to request flexible working.
- All employees regardless of their length of service with the Trust, have the right to request flexible working and Trust managers have a duty to consider all such requests.

POLICY REQUIREMENT

- The purpose of this policy is to provide employees and managers with guidance on how to apply and respond to and consider requests for flexible working.
- This policy links in with other family friendly policies.

Change Record

Date	Version	Author (Name & Role)	Reasons for review / Changes incorporated	Ratifying Committee
Feb 2025	6	Fouzia Hussain People Partner	New legislative changes, differences between agile and flexible working added.	TCSE

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1 INTRODUCTION

1.1 Rationale

The new guidance detailed below and throughout this policy supersedes all previous guidance and requirements in previous policies.

Flexible working is part of a wider commitment by the NHS to improve the quality of working life. It also supports the retention of existing staff including those returning to work after family leave.

The key changes are as follows:

New contractual terms enable employees to:

- Request flexible working from day one of employment.
- Make an unlimited number of applications for flexible working, rather than being able to submit one per rolling 12 months.
- Submit applications without having to justify requests or provide specific reasons

The purpose of this policy is to provide employees and managers with guidance on how to apply and respond to requests for flexible working.

The Trust acknowledges that flexible working opportunities:

- Aid the recruitment and retention of employees.
- Encourage parents to return to work following maternity, paternity or adoption leave
- Allow employees to accommodate the demands of family life and provide a work-life balance.

1.2 Scope (Where, When, Who)

The Trust is dedicated to ensuring our values of being compassionate, committed and inclusive are part of our everyday behaviours and this policy has been developed in line with our Trust Strategy to ensure that our people are given the opportunity for flexible working, to enhance their work/life balance, improve retention and improve staff experience through effective team working.

The purpose of this policy is to support current legislation in relation to the right to request flexible working and to facilitate discussions between managers and employees to consider flexible working patterns and to find a solution that suits both the employee and the Manager.

This policy applies to all Trust employees and should be adopted by all managers and anyone wishing to request flexible working options. There is a separate process for Postgraduate Doctors in Training if they wish to apply to work Less Than Full Time, managed via PGME and NHS WTE (workforce, training and education).

This policy is to be used in conjunction with the Employee and Managers Toolkits.

[Flexible Working Toolkit - Employees.pdf](#)

[Flexible Working Toolkit - Managers.pdf](#)

The Employment Act gives the right to request to work flexibly and states that employers have a duty to consider all requests on a case-by-case basis. The legislation does not give employees a right to work flexibly, however the Trust will accommodate requests, where possible, dependant on service needs.

The needs of the service provision will however always be the principal consideration. As a result of that, there will be circumstances when a manager is unable to accommodate the employee's desired work pattern, due to the needs of the service.

In the case of NHS Employed Learners, who are employed in the Trust on behalf of NHSE and an accredited University training programme, all requests for flexible working will be reviewed in conjunction with the relevant University training programme and clinical placement provider who may be an organisation separate to BSMHFT. This is to ensure that the academic and clinical practice requirements of the professional training programme are fully understood.

1.3 Principles (Beliefs)

All Employees, have the statutory right to *request* flexible working regardless of their length of service with the Trust. Trust managers have a duty to give full consideration to all such requests on a case-by-case basis.

Please note, informal/temporary requests can also be made, and this must be made explicit when applying.

An employee can request flexible working arrangements, which include changes that relate to (not exhaustive):

- Different hours of working such as: *part time hours, annualised hours, compressed hours, job share/job split, shift variations (i.e., twilights)*
- Different time of working such as: *flexi time, term time, shifts, staggered times, self-rostering*
- Different places of work such as: *home working, working from an alternative Trust site.*
- *Any requests for different location of work needs to be reviewed under the agile working policy.*

Further information on types of flexible working can be found in the employee toolkit.

2 POLICY (What)

Under the new rules, employees can make an unlimited number of requests at any stage during their employment.

Managers are expected to explore and promote flexible working during recruitment, RMS (regular management supervision) and appraisals.

Although employees do not need to provide any justification or have a specific reason for requesting flexible working, some reasons as to why flexible working may be beneficial are detailed in the employee's toolkit.

The main responsibility for agreeing and implementing any flexible working arrangements rests with the line managers. They can contact People Department for procedural advice and guidance if necessary.

In order to enable the Trust to have a clear process for managing and monitoring, all flexible working arrangements have to be confirmed in writing with a copy of the agreement filed on the employees personnel file and ESR is to be updated.

Employees should be aware that where approved applications which constitute a change to contractual terms, the employee therefore has no automatic right to change back to the previous working pattern, unless the application seeks or it is agreed that the new working pattern to run for a specified time period only.

For employees wishing to make permanent changes, this can be considered in line with the business need following a discussion with the line manager at any time.

A trial period may be agreed between the employee and the line manager should it be deemed a helpful step. The length of the trial period, which would be reviewed when completed, would be decided by the line manager on case-by-case scenario.

2.1 Difference between flexible and agile working

Flexible Working	Flexible working is the term used to describe the different ways in which staff can change their working pattern including part time hours, job sharing, annualised hours and term time only working as some examples. Please see Trust's Flexible working policy for more details.
Agile Working	Agile Working is a type of flexible working agreement and is covered by the Agile Working Policy. The term used to describe how employees can work effectively from any location, whether it is from a Birmingham and Solihull Mental Health NHS Foundation Trust building, within the community and client sites or by varying degrees of home working and regular hot-desking.

2.2 Reasonable Adjustments

Under the Equality Act 2010 our Trust have a duty to remove or reduce any disadvantage relating to someone's disability, this includes working arrangements.

If you feel changing your work pattern, hours, working days etc. would benefit you due to a disability, you may be entitled to reasonable adjustments, therefore not necessarily needing to apply for flexible working.

3 PROCEDURE

Line Managers are encouraged to discuss options of flexible working with employees in their RMS and/or ADR.

Managers are responsible for being open in response to flexible working requests and to accommodate requests where possible but must give thoughtful consideration to the impact of a request on colleagues and service delivery.

3.1 Applying for Flexible Working

To request flexible working the employee must make a considered application VIA ESR (see employee toolkit for step-by-step guide) at least 12 weeks (unless in exceptional

circumstances) in advance of the time when they would wish to commence the flexible working pattern.

Employees can make more than one application in any twelve-month period, regardless of the reason for the request. All requests must be made in line with this policy via Self Service in ESR:

[How to request Flexible Working.pdf](#)

When reviewing flexible working requests managers are advised to actively involve their finance team to assess whether there are any budgetary implications of an agreed flexible working request.

3.2 Accepting Flexible working requests

Managers are required to have a formal meeting with the employee and respond to the request within 28 days of the application as per Managers Toolkit. Day 1 starts with the application being made. Please note this is all within the 12 weeks in 3.1.

Any request that is made and accepted under the statutory right can be made as either a permanent change or a temporary / trial basis or for a specific length of time. This is entirely dependent on the circumstances and situation of each individual case and in line with the needs of the service. The employee has no right to revert to the previous working pattern (unless otherwise agreed). If the arrangement is for temporary/ time limited, then this needs to be recorded on ESR as temporary and here needs to be a review time of at least once every 12 months.

3.3 Declining Flexible Working Requests

Under the Employment Rights Bill 2024, the responsibility lies with the employer to state why it is reasonable to refuse the request.

Please refer to page 14 of the toolkit which provides advice in relation to where flexible working can only be legitimately refused. For ease, please see below.

There are eight business reasons that are listed in legislation where an employer can refuse a request.

- 1) The burden of additional costs
- 2) Detrimental effect on ability to meet customer demand
- 3) Inability to re-organise work among existing staff
- 4) Inability to recruit additional staff
- 5) Detrimental impact on quality
- 6) Detrimental impact on performance
- 7) Insufficiency of work during the periods the employee proposes to work
- 8) Planned structural changes

Whilst reviewing flexible working request it is likely for the request to be rejected managers are to contact divisional people team representatives for analysis and further review prior to rejecting requests.

In the event of a request being denied, the line manager is required to consult with the employee following which the manager will inform the employee in writing of the reasons for the request being denied and provide a legitimate reason as to why this can't be accommodated. When dealing with all requests managers must ensure that discrimination does not occur.

The Trust must give full consideration to the request. If a request is turned down it must be clearly justified. Please see Managers Toolkit for further information.

Failure to provide reasonable justification on one of the grounds as detailed in this policy and the managers toolkit may result in an employee appealing this decision as per the appeals process.

In all cases, if a manager is unable to accommodate the requested flexible working pattern, the case should be referred to the People Directorate for further advice.

All correspondence from line managers in relation to accepting/declining flexible working must also be put in writing on the official Trust letter head and subsequently saved in the personal files on OnBase.

3.4 Reasonable Alternatives

If a request cannot be accommodated in the current specific area of work, managers should undertake a scoping exercise to see if the request could be accommodated in another area of the service or Trust. This is to be done with support from the People Directorate and in collaborative discussion with the employee to determine what would be reasonable.

3.5 Right to Appeal

An employee has a right of appeal against their manager's decision. The process is designed to be in keeping with the overall aim of encouraging both Managers and employee to reach a satisfactory outcome at the workplace (see section 3.3)

Appeals should be put in writing to either the Clinical Nurse Manager/Divisional Manager or Associate Director or Deputy Medical Director or equivalent.

In the event that the Manager refuses requests to work flexibly, any appeal must be based on the belief that there has been:

- Inaccuracies in the information considered as part of the request
- The failure to consider the request appropriately
- The failure to follow the procedure

Considerations for those hearing appeals would include;

- Whether local process had been appropriately followed
- Whether all appropriate options had been fully considered
- Whether there were any inaccuracies in the considered information

The Appeal panel will be made up of an appropriate level of Trust manager. All Appeals Panels will consist of at least two panel members. The members will include a manager and a HR representative not previously involved in the case.

In the event of the exhaustion of the Trust's internal process, the employee can apply to

an Employment Tribunal, who can make an award and order the employer to reconsider its decision, therefore it is essential managers assess applications and seek appropriate advice and alternatives in the first instance.

Staff are encouraged to raise concerns and feel psychologically safe therefore if they do NOT feel confident to professionally challenge a decision with their manager they should access other avenues such as their People Team representative (found on Connect under the People Directorate information tab) or the Freedom to Speak Up Guardian (FTSU). ***Please note, there will be a different member of the People team advising the appeal panel to ensure objectivity.***

Appeals must be received in writing no later than 10 working days from the date of the letter that informed the employee of the outcome.

Trade Union representatives are available to support employees with completing appeal paperwork. Information on how to contact Trade Union representatives is available on Connect.

A hearing must be arranged within **10 working days** of receipt of the appeal form, in order to discuss the appeal.

3.6 Annual Leave

Annual leave is to be booked in line with the terms of the flexible working agreement, for example if an employee is working compressed hours and requires annual leave on one of those days the hours due to be worked that day is to be booked.

For information on bank holiday entitlement when on a flexible working agreement please refer to the Annual Leave guidance.

Please note, ESR must be updated to ensure that the correct annual leave is calculated.

4 RESPONSIBILITIES

Post(s)	Responsibilities	Ref
All staff (Incl Employees, Managers, People Directorate etc.)	<ul style="list-style-type: none">• Be aware of the policy and its provisions.• Consider the possible impact a change of their working pattern might have on the service provision.• Complete the application with honesty and integrity.• Consider all requests based on a case-by-case merit but with consideration to the service needs.• Record the requests and ensure any requests and changes are reflected in ESR.• Provision of advice and guidance on the process, and related employment law.	
Employee's Responsibilities	<p>In making an application, it is important that the employee considers the following:</p> <ul style="list-style-type: none">• Which working pattern will best support them at work• The potential implications of their application; financial and other, on the service provision, service users, fellow work colleagues and how these might be realistically accommodated.	

Manager's Responsibilities	<p>It is the manager's responsibility to:</p> <ul style="list-style-type: none"> • give full consideration to any request to work flexibly, • follow the outlined procedure, • comply with the outlined timescales (unless otherwise agreed), • Ensure the full application form has been completed • Ensure that ESR has been updated if there has been a change in contracted hours to avoid overpayments/underpayments. <p>In the event that any request to work flexibly is declined, Managers need to provide clear rationale for the reasons why they are unable to accommodate the desired work pattern.</p> <p>Copies must be kept on the employees personnel file ESR must also be updated to reflect a flexible working agreement is in place. For support on how to do this please contact the ESR team and/or People and Culture Team Representative.</p>	
People Directorate Support	<p>The People department would be involved in the process in a support/advisory capacity only.</p> <p><u>Further information</u> on the right to request flexible working is available from the Advisory, Conciliation & Arbitration Service (ACAS) via http://www.acas.org.uk/index.aspx?articleid=1616</p>	
Service, Clinical and Corporate Directors	Ensure that the policy is being utilised appropriately and in timely manner.	
Policy Lead	To ensure that the policy is in line with current legislation requirements and utilised correctly	
Executive Director	To ensure that any concerns regarding the policy and its use are considered as appropriate.	
People Directorate	Ensure the policy complies with the latest legislation.	

5 DEVELOPMENT AND CONSULTATION PROCESS

Consultation summary		
Date policy issued for consultation		February 2025
Number of versions produced for consultation		1
Committees or meetings where this policy was formally discussed		
PDMG		May 2025
Where else presented	Summary of feedback	Actions / Response
Trade Unions	Updated – Employment Law Changes, minor changes	

6 REFERENCE DOCUMENTS

HR04 – Special and Carers Leave Policy
HR08 – Family Leave Policy
HR13 – Employment Break Policy
HR15 – Pay Policy

7 BIBLIOGRAPHY

Employment Rights Bill 2024
[Employment Act 2003](#)
Amendments to the act 2007, 2011, 2014
<http://www.acas.org.uk/index.aspx?articleid=1616>

8 GLOSSARY

Not applicable.

9 AUDIT AND ASSURANCE

Element to be monitored	Lead	Tool	Frequency	Reporting Committee
Feedback from Managers and employees	People Operations / Line Managers	Appeals Process	As appropriate.	People Committee
Declining of Flexible Working Application	People Operations / Line Managers	Via Line managers/CNMs'/AD's (or equivalent)	As appropriate	People Committee
Appeals against Flexible Working	People Operations / CNM's/AD's	Via Line Managers/CNM's/AD's	As appropriate	People Committee

10 APPENDICES

Equality Impact Assessment (appendix 1)

Appendix 1

Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect

<http://connect/corporate/humanresources/managementsupport/Pages/default.aspx>

Title of Proposal	Flexible Working Policy		
Person Completing this proposal	Fouzia Hussain	Role or title	People Partner – Strategy, Workforce Transformation & Projects
Division	Corporate	Service Area	People Directorate
Date Started	December 2024	Date completed	January 2025
Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.			
<p>Birmingham and Solihull Mental Health Foundation Trust recognises the importance of a work-life balance for employees and supports current legislation in relation to the right to request flexible working.</p> <ul style="list-style-type: none"> • Guidance for who and what is eligible for flexible working • Process for applying for flexible working • Guidance for managers and employees • Agreed action to be taken by whom and when 			
Who will benefit from the proposal?			
<p>All employees of the Trust are able to put in a request for flexible working.</p> <p>The Trust acknowledges, recognises and supports the importance of a work/life balance and the impact this can have on an employee's wellbeing. This policy sets out a clear procedure, and identifies the responsibilities of each party concerned when considering entering a flexible working application.</p> <p>Results from the 2023 Staff Survey provided the following responses to questions relating to flexible working:</p> <ul style="list-style-type: none"> • Can I approach my immediate manager to talk openly about flexible working? 79.2% of respondents said yes. Increased from 2021 score of 74.9% <p>I am satisfied with opportunities for flexible working - 64.5% which has increased from the 2023 score (61.8%)</p>			
Do the proposals affect service users, employees or the wider community?			
Add any data you have on the groups affected split by Protected characteristic in the boxes below. Highlight how you have used the data to reduce any noted inequalities going forward			
Yes, Positively.			

Do the proposals significantly affect service delivery, business processes or policy? <i>How will these reduce inequality?</i>				
No				
Does it involve a significant commitment of resources? <i>How will these reduce inequality?</i>				
No				
Do the proposals relate to an area where there are known inequalities? (e.g. seclusion, accessibility, recruitment & progression)				
No				
Impacts on different Personal Protected Characteristics – Helpful Questions:				
<i>Does this proposal promote equality of opportunity?</i> <i>Eliminate discrimination?</i> <i>Eliminate harassment?</i> <i>Eliminate victimisation?</i>			<i>Promote good community relations?</i> <i>Promote positive attitudes towards disabled people?</i> <i>Consider more favourable treatment of disabled people?</i> <i>Promote involvement and consultation?</i> <i>Protect and promote human rights?</i>	
Please click in the relevant impact box and include relevant data.				
Personal Protected Characteristic	No/Minimum Impact	Negative Impact	Positive Impact	Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.
Age			x	Open to all employees, FTC, secondments and placements irrespective of age or level/grade within the organisation. This policy is not applicable to bank workers as all bank only workers are able to choose their shifts and have flexibility around the hours/shifts they can commit to. The staff are reasonably evenly spread between 26-40 ages range 10.56% to 12.48% and ages 41 to 60 groups ranging from 13.13% to 14.38%. Therefore, there is a reasonable balanced profile with no one age group negatively impacted. However, the Trust recognises that that flexible working will not always be suitable for every service, role or employee.
Including children and people over 65 Is it easy for someone of any age to find out about your service or access your proposal? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				

Disability			x	In line with the Equality Act all employees will be treated fairly and reasonable adjustments will be made available where possible, in line with individual needs. Analysis of staff data shows that there is a small proportion of staff in the Trust who have indicated that they have a disability 5.38% 7.79% there is however a higher percentage who have chosen not to specify –12.48% In opening the opportunity to consider flexible working the Trust recognises that that flexible working arrangements will not always be suitable for every service, role or employee.
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				
Gender	x			The Trust profile has a higher percentage of female staff at 72.83% compared to 27.71% male. In opening the opportunity to consider flexible working the Trust recognises that that flexible working arrangements will not be suitable for every service, role or employee.
This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your proposal?				
Marriage or Civil Partnerships	x			Monitoring is built into the framework to use of policy to evaluate the support given to all protected characteristics to take where appropriate
People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?				
Pregnancy or Maternity			x	The Trust is committed to supporting employees following Maternity/Paternity leave and will continue to be flexible where possible.
This includes women having a baby and women just after they have had a baby Does your service accommodate the needs of expectant and post natal mothers both as staff and service users? Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity?				
Race or Ethnicity	x			Monitoring is built into the framework to use of policy to evaluate the support given to all protected characteristics to take where appropriate. Trust profile shows 42.17% BME, 44.88% white and 9.97% left blank and 2.98% did not state. The aim of the policy to provide managers and employees understand the process for agreeing and establishing flexible arrangements.
Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees What training does staff have to respond to the cultural needs of different ethnic groups? What arrangements are in place to communicate with people who do not have English as a first language?				

Religion or Belief			x	The Trust recognises flexibility is needed to accommodate religious festivals and celebrations. The Trust will provide flexibility where possible. Trust profile 40.12% Christian; 14.07% do not wish to disclose; 12.27%Atheism; 10.15% are unspecified and 9.76%% Islam Other: 8.02%'; 2.82% Sikhism;2.07 Hinduism. All employees can make a make request via this Flexible Working Policy.
Including humanists and non-believers Is there easy access to a prayer or quiet room to your service delivery area? When organising events – Do you take necessary steps to make sure that spiritual requirements are met?				
Sexual Orientation	x			Trust profile 75.57% Heterosexual/straight; 9.90% did not state but declined to respond; 10.01% unspecified; 2.05% Gay or Lesbian and 1.86% Bisexual. Trust recognises that that flexible working arrangements will not be suitable for every service, role or employee.
Including gay men, lesbians and bisexual people Does your service use visual images that could be people from any background or are the images mainly heterosexual couples? Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
Transgender or Gender Reassignment	x			A flexible approach will be adapted to support employees who are going through the transition in line with the Trans Equality Policy for employees. Reasonable adjustments will be made available where possible to support employees further.
This will include people who are in the process of or in a care pathway changing from one gender to another Have you considered the possible needs of transgender staff and service users in the development of your proposal or service?				
Human Rights	x			Monitoring is built into the framework to evaluate the use of policy and support will be provided to all protected characteristics and where necessary to take action to avoid bias.
Affecting someone's right to Life, Dignity and Respect? Caring for other people or protecting them from danger? The detention of an individual inadvertently or placing someone in a humiliating situation or position?				
If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)				
	Yes	No		
	High Impact	Medium Impact	Low Impact	No Impact

What do you consider the level of negative impact to be?			X	
<p>If the impact could be discriminatory in law, please contact the Equality and Diversity Lead immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.</p> <p>If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the Equality and Diversity Lead before proceeding.</p> <p>If the proposal does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the Equality and Diversity Lead.</p>				
Action Planning:				
How could you minimise or remove any negative impact identified even if this is of low significance?				
Provide training for managers on how to implement and review flexible working, Monitor and review the application of the policy guidance in relation to all employees, and in particular any different treatment being applied to those with protected characteristics				
How will any impact or planned actions be monitored and reviewed?				
Intention to review after 6 months to see how the training of managers has influenced the quality of stress risk assessments undertaken and the implementation of the related recommendations.				
How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.				
Provide training for managers on how to implement and review flexible working, Monitor and review the application of the policy guidance in relation to all employees, and in particular any different treatment being applied to those with protected characteristics				
Please save and keep one copy and then send a copy with a copy of the policy to the Senior Equality and Diversity Lead at bsmhft.edi.queries@nhs.net . The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis				