

**TRUST CORPORATE POLICY:
FLEXIBLE WORKING POLICY**

APPROVING COMMITTEE(S)	Trust Policy Committee	Date approved:	Chair's action: 18/10/13
EFFECTIVE FROM	Approval date		
DISTRIBUTION	All Managers in CAGs, Corporate Services and Non-Clinical Services via Trust Bulletin; all employees via Trust Intranet		
RELATED DOCUMENTS	Barts Health Disciplinary Policy Barts Health Grievance Policy		
STANDARDS			
OWNER	Director of Human Resources		
AUTHOR/FURTHER INFORMATION	James Devine, Head of HR		
SUPERCEDED DOCUMENTS	Whipps Cross University Hospitals NHS Trust, Barts and The London NHS Trust and Newham University Hospital NHS Trust – all legacy policies related to Flexible Working		
REVIEW DUE	Three years from the date of approval or earlier subject to legislative or national policy changes or organisational need		
KEYWORDS	Flexible Working		
INTRANET LOCATION(S)	http://bartshealthintranet/Policies-and-Guidelines/Index.aspx		

CONSULTATION	<i>Barts Health</i>	Policy Working Group, Interim Partnership Board
	<i>External Partner(s)</i>	Capital Hospitals via the New Hospital Control Team for Barts and the London NHS Trust

SCOPE OF APPLICATION AND EXEMPTIONS	Included in policy: <i>For the groups listed below, failure to follow the policy may result in investigation and management action which may include formal action in line with the Trust's disciplinary or capability procedures for Trust employees, and other action in relation to organisations contracted to the Trust, which may result in the termination of a contract, assignment, placement, secondment or honorary arrangement.</i>
	All Trust staff employed on a contract of employment, excluding Junior Doctors in training
	Exempted from policy: <i>The following groups are exempt from this policy:</i> Exclusions: e.g. students, agency workers, Bank (only) staff, honorary contracts and contractors working within the Trust

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<p>"Please note that where words/phrases are inside square brackets [], this indicates that you can click on the word/phrase when and it will send you to the relevant area of the policy or (if you are using a Trust PC) the relevant supporting document/template.</p> <p>This Policy is available in Braille, large print, Easy-Read and alternative languages by request. It is a manager's responsibility to ensure employees are aware of these options."</p>	

Vision, Values & Behaviours

In order to establish a sense of organisational community during the development of Barts Health, the 'Creating our Future together Campaign' was established. The Campaign engaged patients, carers, staff and partners to identify a set of values and behaviours we can all share to make Barts Health a great organisation. Our vision is to change lives.

Our values define what is important in the way we deliver this vision. Our core behaviours set out how all of us will work regardless of the role we hold in the organisation. These behaviours consistently carried out will help embed the values in our everyday working lives and ultimately consistently 'doing the right thing' will affect our organisation's culture. Every time individually we do the right thing it makes it easier for others to follow our example.

At Barts Health we champion dignity, compassion and respect, putting the individual at the heart of all decisions, striving to get it right for every person, every time.

As Managers and staff we must ensure we implement the principles held by the values & behaviours so we can support the achievement of our vision to 'Change Lives'.

Our Values:

- Caring and compassionate with patients, each other and our partners
- Actively listening, understanding and responding to patients, staff and our partners
- Relentlessly improving and innovating for patient safety
- Achieving ambitious results by working together
- Valuing every member of staff and their contribution to the care of our patients.

All of us, managers and staff are responsible for ensuring the values and behaviours are integral to how we implement this policy. Through this implementation together we can affect the organisational culture and change lives.

1. INTRODUCTION

- 1.1 *This document is not intended to constitute part of the contract of employment of any employee of the Trust.*
- 1.2 Barts Health NHS Trust recognises that it is required to provide a high quality service to its patients in a timely manner. Whilst doing so the Trust is committed to offering flexible, modern employment practices that recognise its workforce's need to strike a sensible balance between home and work life. This commitment gives great scope for flexible working practices to be introduced. Both managers and employees need to be flexible to suit each other's needs to allow for a change to work for the benefit of all parties. Flexible arrangements should provide a balance between the needs of the individual, the service and other team members.
- 1.3 Barts Health NHS Trust encourages imaginative employment practices that meet both the requirements of employees and maintain appropriate levels of service provision to our patients and service users. Employees are encouraged to discuss their changing circumstances with their manager and are also encouraged to suggest different ways of working which, although not specifically listed in this policy, may be considered.
- 1.4 All parties should remain open minded and flexible in their approach when applying for, or considering a change to existing working patterns. In considering an application, all parties should be clear that an agreed change is permanent unless agreed otherwise. The duration of the change (i.e. permanent or fixed-term) must be communicated to the employee.
- 1.5.1 Any member of staff is able to make a request for flexible working. However, to be eligible to make a statutory flexible working request employees must:
- have continuous employment with the Trust for at least 26 weeks
 - has not made another statutory request during the past 12 months
 - be parents/guardian of children aged under eighteen
 - be parents/guardian of disabled children aged under eighteen
 - be a carer of an adult who is a spouse, partner, civil partner, relative, or lives at the carer's address
- The Trust has a statutory duty to consider applications from this group of employees. Although the legal right to apply for flexible working is restricted to this group, the provisions of this policy will apply equally to all employees of the Trust and will operate in line with equal opportunities to prevent discrimination on any grounds.
- 1.5.2 Employees returning to work following maternity leave, have a statutory right to request to work flexibly and the Trust has a duty to facilitate this wherever possible. (Please also see Maternity leave Policy).
- 1.6 Employees who make an application under this policy will continue to have the same statutory rights as other employees. They shall also have equal access to training, career development and participation in team activities.

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- 1.7 All employees with flexible working arrangements approved will have access to standard terms and conditions of employment on an equal or pro rata basis.
- 1.8 The Trust produces guidance and FAQs on this policy which sets out how it will be applied in practice and the expectation is that these will be followed.

2. AIM

2.1 Barts Health NHS Trust is committed to providing support to employees at times where they may need to alter their working pattern either on a temporary or permanent basis.

3. OBJECTIVE

- 3.1 To provide a fair and robust mechanism to ensure that employees are treated equitably with regard to flexible working options.

4. DEFINITION

- 4.1 Flexible working refers to working practices mutually agreed between employee and employer, which covers working hours, location or patterns of work. Such arrangements have to comply with legislation on working time, including hours, rest breaks and the working week.

5. DUTIES AND RESPONSIBILITIES

Employee Responsibilities	<ul style="list-style-type: none"> • The initial onus will be on the employee to make a considered application to their manager for any change in existing working arrangements, in writing, using the form at Appendix A. • The employee has a responsibility to ensure that any application balances the needs of the individual, service and other team members. • An employee may not request another change of a long term working pattern for at least a year. • Employees are responsible for identifying any personal financial implications, including any possible effect on their pension. • The employee should work with their manager to demonstrate how they will be able to make their role work on a flexible schedule, which is supported by the rest of the team in a way that does not compromise service provision. • A change in terms and conditions, once agreed, will, unless agreed otherwise, be permanent and the
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	<p>employee has no statutory right to revert to their previous working arrangements.</p> <ul style="list-style-type: none"> • Ensure that any financial implications are fully considered and have been actioned.
<p>Manager Responsibilities</p>	<ul style="list-style-type: none"> • Managers must consider all requests to change existing working patterns either on a temporary or permanent basis, in a non-discriminatory manner. • The manager has a responsibility to ensure that any change in working hours balances the needs of the individual, service and other team members. • Managers must ensure they comply with the Trust policy and relevant legislation relating to applications for flexible working. • Employees working flexibly must be included in all activities offered to those working traditional hours such as training, team meetings and professional development. • Ensure that a change form is completed as soon as possible to ensure that changes are reflected on ESR, and that under/overpayments are avoided; managers should assure themselves that these changes are recorded and actioned. • Copies of the full application (regardless of whether agreed or not) should be sent to the HR Advisor • Any cases which are complex or contentious, advice should be sought from the HR team.

6. MONITORING AND REVIEW

- 6.1 All applications, outcomes and other correspondence from both the manager and the employee should be recorded and kept by the manager. Copies should be held on the individual's personal file. All applications and outcomes will be monitored and analysed by Human Resources in line with the NHS Terms and Conditions.
- 6.2 Copies should be sent to the HR Advisor to record on ESR and maintain records in readiness for any potential Employment Tribunal request, or audit requirement.
- 6.3 This policy itself will be reviewed, through the Policies and Procedures Group, as part of the Trust's ongoing policy review plan. It will also be revisited in light of the implementation or review of relevant legislation.

7. PROCEDURE FOR APPLYING FOR FLEXIBLE WORKING

- 7.1 Where possible flexible working requests should be dealt with via an informal approach. Although the majority of requests will be resolved following this method managers must also

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be aware of, and adhere to, the regulations set out in employment legislation. Following the process detailed below will ensure that these regulations are met.

7.1.1 Making the application

- Applications for consideration must be in writing, preferably using the form included in this Policy (Appendix A), to their line manager.
- The applicant should clearly describe what their preferred working pattern would be and detail the overall benefits should such a change be approved. Therefore, it may be useful to discuss intended changes with work colleagues prior to submitting an application

7.1.2 Dealing with the request

- When a request to change a working pattern is made it is reasonable for the manager to ask “Why?” It is equally reasonable for the employee to ask “Why not?” Therefore a manager should not provide a response to the applicant until every aspect of the potential change has been fully considered in relation to the applicant, the patient/service users, the rest of the applicant’s team and impact on local service provision.
- The expectation is that both the manager and the applicant will think widely on what is available and how this can meet the needs of both parties. Therefore, open communication is essential through the consultation process, and where necessary, involving all other team members.
- When considering requests the manager must take into consideration the effect of the change on the employee and other affected parties as well as operational service practicalities. Managers should seek to accommodate reasonable requests. Any decision to reject a request must be on one or more of the following grounds:
 - Unreasonable burden of additional costs
 - Detrimental affect on the ability of the service to meet service demands
 - Detrimental impact on the provision of continuous standards of care to patients
 - Inability to reorganise work among existing employees
 - Inability to recruit additional staff
 - Detrimental impact on quality or performance
 - Insufficiency of work during the periods the employee proposes to work
 - Planned structural changes

7.1.3 Meeting

- Within 28 days of receiving the request, the manager and employee will meet formally to discuss the application.
- The aim of this meeting will be to provide an opportunity to explore the desired work pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative working patterns, should there be problems in accommodating the desired work pattern outlined in the employee’s application.

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- The employee, will, if they so wish, be able to be represented by their trade union representative or be accompanied by a workplace colleague.
- Should the employee fail to attend any such meeting, on more than one occasion and for no good reason, the manager may treat the application as being withdrawn.

7.1.4 Outcome

- The manager will carefully consider the application and further information provided during the meeting, and will provide a written reply directly to the employee within 14 days of the meeting. This will either confirm the new pattern or giving full, clear business reasons as to why the request is being refused. The decision should be objectively justified and the reasoning communicated to the employee.
- If it is not reasonably practicable to provide the response to the employee within 14 days of the meeting, the manager will write to the employee informing them of this and requesting their agreement to a further period of 14 calendar days. The employee will not unreasonably withhold agreement to this additional period.
- It is important that when making an application the employee gives careful consideration to any salary or pension implications of any changes.
- The manager should write to the employee to confirm the changes – particularly in reference to whether the changes are temporary or permanent. It should be made clear that if a permanent change has been agreed, a further request may be required in order to amend that arrangement. Temporary changes should be reviewed regularly and should an indicative end date.
- Where appropriate, trial periods, agreed and in writing, will be put into effect to ensure that the flexible working arrangement is working well for the applicant, their patients and or service users, the rest of the team and the department as a whole prior to becoming a permanent arrangement. It should be noted that agreement to a trial period does not automatically mean agreement to a permanent change to the employee's work pattern.
- The manager will monitor the trial and consider feedback from all parties involved in the change, prior to agreeing it on a permanent basis.

7.1.5 Appeal

- If the request is rejected, the employee has the right to appeal the decision. If they wish to proceed in this way, they must appeal in writing, setting out the grounds for their appeal within 14 calendar days of the receipt of the outcome.
- The appeal must be received by the manager senior to the manager who dealt with the original request, who will then meet with the employee to discuss the appeal within 14 calendar days of receipt of the appeal letter.
- The senior manager will write to the employee notifying the decision within 14 calendar days of the meeting.

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- If the appeal is upheld, the employee and manager will need to consider what arrangements they need to make to enable the change in working pattern.
- A decision made at this stage is final.

7.1.6 Review

- All flexible working requests that are granted will be reviewed on an annual basis
- There is an expectation that these requests may need to change over time in response to the needs of the service

8. FLEXIBLE WORKING OPTIONS

The suitability of these flexible working options will vary from service to service. Therefore, it is unlikely that all of these options will be available to an employee making a flexible working application. More than one flexible working option can be considered with each flexible working application.

8.1 Part Time Working

In consideration of the The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, part time employees are contracted to work less than standard, basic, full time hours. There are many opportunities for part time working within the Trust for all bands/grades of employees, irrespective of where they work, and management will consider any requests to change from full time to part time hours.

8.2 Flexi-time

Where agreed, employees can choose their own start and finish times around core hours. Completed personal flexi sheet records should be submitted to the appropriate manager for approval at the end of each four week period. The Manager is responsible for monitoring flexi time and the applicant is responsible for accurate reporting of their flexitime. Abuse of this facility may lead to disciplinary action and/or withdrawal of the scheme to individuals or collectively.

8.3 Staggered Hours

Employees have different start, finish and break times, allowing a business unit/department to open longer hours.

8.4 Compressed hours

This form of working compacts the contracted hours into fewer but longer working sessions. Hours are built up on working days, enabling blocks of time off to be given, i.e. 9 day fortnights or 3 x 12.5 shifts per week.

8.5 Job Sharing

One full time job is split between two employees who share the responsibilities of post, dividing the hours and duties between them. Salary and leave entitlement are on a pro rata basis.

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8.6 Team Based Rostering

Team members are given the ability to schedule their working day within an agreed frame work of staffing levels and skills mix. The aim is to promote a culture where members of staff co-operate with each other to balance their work and personal commitments and develop a rota system, which provides for both. By introducing self-rostering, which is a bottom up approach to scheduling work, employees have a greater feeling of control over the pattern of their working lives. Success in introducing self rostering depends on consultation, open communication and the involvement of all the team. Ideally, the department/ward/unit should be up to full establishment with agreed skill mix and core staffing levels to enable self rostering to be effective. .

8.7 Time off in lieu (TOIL)

TOIL does not automatically accrue, but where agreed employees take time off to compensate for extra hours worked. Employees and managers agree that extra hours are worked in return for time off to be taken at a mutually convenient time. The normal period for this would be one month although, with agreement, this can be extended. Managers and employees should also agree on a maximum number of days that can be accrued to enable the TOIL to be taken. However, if for operational reasons agreed time off in lieu cannot be taken within three months, the hours worked must be paid for.

8.9 Term Time Working

An employee remains on a permanent contract, but can take paid/unpaid leave during school holidays. However, some jobs can be difficult to reconcile with term time working because of the absence of the individual for extended periods. Therefore, the applicant and manager should also jointly explore other alternatives, such as job share. Term time working employees will have equal access to training, career development and participation in team activities. Term time only employees will be paid pro rata, in 12 equal monthly instalments throughout the year.

8.8 Annualised Hours

Employees work a specific number of hours each year, with the hours being unevenly distributed throughout the year. While the majority of shifts are allocated, the remaining hours are kept in reserve so that employees can be called in at short notice as required. Employees will be paid pro rata, in 12 equal monthly instalments throughout the year.

8.9 Voluntary Part Time Working

The Trust recognises that there are times when employees would want to voluntarily reduce their hours on a temporary basis for an agreed period of time and for which they receive a corresponding reduction in pay. This option could be considered by employees who need to reduce their working time to manage outside responsibilities. The specific reduction, work pattern, reason for request and duration of reduction should be discussed with the line manager. This system could be considered for various reasons but may include caring for a sick relative or to undertake a period of study.

8.10 Home Working

Employees work from home on an occasional or temporary basis. It is not intended that home working should be a full time arrangement; rather it is an option to work part of the

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working week or working day at home. Home working may be considered either as a long term arrangement or to cover a short term difficulty.

The Trust has a duty under the Health and Safety at Work Act to ensure the health and safety of its employees while they are at work, so far as is reasonably practical. This duty applies to everything under the employer's control. It does not extend to a place of work that is outside the employer's control, such as home. However, employers are required to perform a risk assessment of the activities carried out by employees who work at home.

Employees who work at home have individual responsibilities under Health and Safety regulations. They are required to take reasonable care of their own health and safety and cooperate with the Trust as is necessary to comply with statutory obligations, for example, allowing one of the Trust's risk assessors to examine any equipment supplied by the Trust.

9 Impact and Equalities Analysis

- 9.1.1 An Equality Analysis has been carried out for this policy and has concluded that there are no detrimental effects and some positive effects of this policy. The analysis has been included below.

9.2 EQIA

		Yes/No	Comments
1	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	▪ Race	No	
	▪ Disability	No	
	▪ Gender	No	
	▪ Religion or belief	No	
	▪ Sexual orientation including lesbian, gay and bisexual people	No	
	▪ Age	No	
2	Is there any evidence that some groups are affected differently?	No	
3	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?		
4	Is the impact of the policy/guidance likely to be negative?		
5	If so can the impact be avoided?		
6	What alternatives are there to achieving the policy/guidance without the impact?		
7	Can we reduce the impact by taking different action?		

APPLICATION TO CHANGE EXISTING WORKING HOURS

This application must be completed and submitted to your manager, providing as much notice as reasonably possible prior to the proposed start date, for the change to be implemented. Your Manager has 28 days from receipt of this application to either agree to the request or arrange a meeting with you to discuss the request.

Employees should ensure that full consideration has been given to the implications of the request in respect of (not exhaustive) annual leave, pay and pension contributions.

1. I would like to apply to work a flexible working pattern that is different to my current working pattern, under the Trust's Flexible Working (Work Life Balance) Policy:

Name: Job Role:

Department: Manager:

Contact: Telephone number/email:

- I have worked continuously as an employee of the Trust for the last 26 weeks.
- I have not made a request to work flexibly under this right during the past 12 months.

Date of any previous request to work flexibly under this right:

Statutory Reason 1

- I have responsibility for the upbringing of either:
[] a child under sixteen; or
[] a disabled child under 18.
- I am:
 - The mother, father, adopter, guardian, special guardian or foster parent of the child; or
 - Married to, or the partner or civil partner of, the child's mother, father, adopter, guardian, special guardian or foster parent.
 -
- I am making this request to help me care for the child.

Statutory Reason 2

- I am, or expect to be, caring for an adult.
- I am:
 - The spouse, partner, civil partner or relative of the adult in need of care; or

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○ Not the spouse, partner, civil partner or relative of that adult, but live at the same address.

- I am making this request to help me care for the adult in need of care.

If you are unable to tick any of the boxes above you do not qualify to make a request to work flexibly under the statutory procedure. However the provisions of the Trust's policy will apply equally to all employees of the Trust and will operate in line with equal opportunities to prevent discrimination on any grounds. In view of which, you should outline the reasons for your request below:

2a. Describe your current working pattern (days/hours/times worked):

2b. Describe fully the working pattern you would like to work in future (days/hours/shift pattern):

2c. I would like this working pattern to commence from:

I wish this change to be on a temporary/permanent* basis. (* Please delete as appropriate)

If temporary, state period of time you expect the change to be effective for.

3. Details of how I feel this change can be accommodated.

4. Accommodating the new working pattern:

I think the effect on my employer and colleagues can be dealt with as follows:

I have considered my proposal carefully, including any financial impact to me personally should the change be approved.

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I have/have not* discussed my proposal with my work colleagues (*delete as appropriate).

Signed:

Date:

TO BE COMPLETED BY APPLICANT'S MANAGER

Name:

Position:

Department:

Date application received:

Contact: Telephone number/email:

I agree / disagree with the proposed change which will be effective from:

Reason for disagreement (where applicable). To be discussed with the applicant:

Date response provided to applicant

Date Internal change form completed

APPLICATION FLOW CHART

