



Flexible Working

A pocket guide for
RCN representatives



Healthy workplace, healthy you

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1. Introduction

Flexible working can help everyone to strike a balance between the demands of employment and responsibilities outside of work, enabling ways of working that help you work at your best.

This pocket guide will give RCN reps a quick overview of the benefits of flexible working and information to share with members who may need your support to gain access to flexible working. It can be used when you are out and about or as a reminder when preparing for meetings.

You will find a more comprehensive overview of flexible working options, relevant legislation, information to support discussions with employers, policy development, and case studies in the RCN publication *Working Flexibly to Support a Healthy Work-life Balance: a guide for RCN representatives*.

2. Flexible is more than “family friendly”

The UK health care workforce includes a high percentage of parents and individuals with other caring responsibilities such as looking after relatives.

Until recently, flexible working practices were often described as “family friendly” meaning it was primarily used to support that balance between work and caring responsibilities.

The right to request flexible working has since been extended to cover all employees, so the RCN uses the term “employee friendly” to describe policies that encourage a good work-life balance for all.

An ageing workforce means that health and social care employers have to look at ways of enabling staff to work productively and effectively for longer. This can mean providing flexible working hours and pension schemes that allow staff to access flexible retirement opportunities and enable them to remain fulfilled in their work as they near the end of their careers.

Flexible working requests can be used by neurodivergent members who may find traditional shift patterns challenging. People may also wish to pursue other activities outside of work including life-long learning, charity work and/or community activism.

Good employers recognise that, in order to recruit and secure the workforce they need to deliver effective services, they must offer a range of flexible employment policies and practices compatible with the competing responsibilities of their staff.

Increased demand for nursing staff means that organisations which adopt such policies will gain a competitive edge in attracting and retaining a quality nursing workforce.

3. The benefits for nursing staff

Financial reward: Because they are able to continue working. There are not only immediate rewards, but also future returns such as career development and pension entitlements.

Less stress and an improved quality of life: Work performance is enhanced if staff are not concerned about balancing work with other life needs and responsibilities.

Improved morale and a feeling of being valued at work: Better morale reduces absenteeism and ensures that colleagues do not experience additional stress from having to cover gaps in the duty rotas, or to support bank and agency staff who are unfamiliar with the clinical area.

Potential to reduce stress and fatigue-related errors at work: Research shows that the negative aspects of shift work are reduced when staff are able to work their preferred shifts.

Reduction in shift work-related ill health. Not everyone is suited to the challenges of some shift patterns and can struggle with sleep difficulties and managing long-term health conditions.



4. Flexible working makes good business sense

Employee-friendly policies benefit health and social care employers, enhancing their business/service delivery. Increased demand for nursing staff means that attracting and retaining employees makes good business sense and positively impacts on staffing for safe and effective care.

The overall benefits to employers and managers include:

Lower staff turnover: This leads to reduced recruitment and training costs and better continuity of care. In times of nursing shortages, employee-friendly employers can compete more effectively for nurses in a tight labour market

Reduced absenteeism: Research shows that carers may take up to 12 days off a year, usually as sick leave, because caring arrangements break down. Absenteeism is costly to employers and puts extra strain on other staff, lowering morale

Less need to use bank and agency staff: Lower absenteeism and staff turnover reduce the need for bank and agency staff, so less time and effort is spent by managers on finding replacement staff. Also, nurses will not need to work exclusively on a bank if they can get the flexibility they need in a permanent post

Improved morale and staff wellbeing: This generates greater productivity. In addition to better recruitment and retention, research shows that employee-friendly employers report greater staff engagement, commitment and loyalty

Enhanced corporate image: This can increase the ability to attract staff. A rise in the number of applicants gives greater scope for selecting staff with appropriate skills and experience

Demonstration of commitment to equal opportunities: Employment tribunal decisions have found the absence of flexible and family-friendly working arrangements are discriminatory on the grounds of sex and/or marital status.

Employee-friendly arrangements demonstrate the translation of policy statements into practice.

The cost of providing employee-friendly working arrangements can be more than offset by the reduction in recruitment, staff turnover, absenteeism and other costs associated with work-related stress.



5. NHS employers

From September 2021, NHS employers (in England and Wales) are required to comply with the guidance provided in the **NHS Terms and Conditions of Service Handbook** (Section 33: Balancing work and personal life).

NHS employees covered by section 33 of the handbook:

- have the contractual right to request flexible working from day one of their employment
- they can also make an unlimited number of applications for flexible working per year, without having to justify requests or provide specific reasons.

Managers are required to give meaningful consideration to all applications and follow locally agreed processes for monitoring the outcomes. There are also new requirements for better centralised oversight of processes to ensure greater consistency of access to flexible working. This includes an escalation stage for circumstances where a line manager is not initially able to agree a request.

Employers will be expected to promote flexibility options at the point of recruitment and through regular staff engagement through one-to-ones, appraisals and team discussions.

The new handbook provisions provide for the following stages once a flexible working request is received:

1. **Initial exploratory stage with the line manager.**
 2. **Escalation stage** where any unresolved requests are referred on to explore options beyond the employee's immediate role/team.
 3. **Decision stage** where
 - a) agreed solutions are documented and processed or
 - b) objectively justified reasons are provided for refusing a request together with details of the appeals process.
 4. **Appeals stage.**
- 

NHS Staff Council has produced a wide range of information and advice to enable NHS staff to make flexible working requests. This includes a flexible working request flowchart which details the steps line managers and staff in the NHS

should take when making a request for a flexible working arrangement. There is also a set of useful frequently asked questions.

Although, these scenarios have been specifically written with NHS roles in mind, the principles behind them may apply in other work settings.

The NHS Staff Council has also collaborated with NHS England and NHS Improvement to produce two guides to support line managers and staff to work flexibly.

Flexible working across the four countries

- The above provisions apply in England and Wales, with similar measures expected to follow in Northern Ireland.
- NHS Scotland has also introduced the right to flexible working from day one of employment, however, any further policy changes will be introduced in line with its ongoing 'Once for Scotland' workforce policies programme.

6. Independent health and social care employers

Independent health and social care employers determine their own policies, but these must comply with the following minimum legislative requirements.

All employees have the statutory right to ask for flexible working if they:

- are an employee (but not an agency worker or in the armed forces)
- have worked for the employer for 26 weeks continuously before applying
- have not made another application to work flexibly during the past 12 months.

Employers must deal with the requests in a 'reasonable manner'.

More detailed information on the statutory rights can be found in the Advisory Conciliation and Arbitration Service (ACAS) statutory Code and guide on flexible working. ACAS makes recommendations on how employers conduct themselves.

It is important to look at your organisation's local policy on flexible working which should set out how to make flexible working requests.



7. Implementing flexible working practice

There are many forms of flexible working. It can describe a place of work, for example homeworking, or a type of contract, such as a temporary contract.

Other common variations include:

- (a) fixed working patterns to give certainty over hours worked and/or location
- (b) part-time working
- (c) flexitime around core hours
- (d) averaged hours working patterns to allow a set number of hours to be averaged out over an agreed reference period, for example, annual, bi-annual, quarterly, monthly
- (e) compressed/elongated hours to allow work to be condensed or stretched over a specific time period
- (f) job sharing
- (g) term-time working
- (h) swapping hours

- (i) voluntary reduced working time (V-time)
- (j) career break
- (k) flexible retirement
- (l) homeworking for some or all of the working pattern
- (m) shift work.

Each option could be taken alone or combined to suit an individual's circumstances. Recognising that a significant majority of nurses and health care workers work shifts, also contained below is general guidance on how best to deal with flexible work in shift working.

Self-rostering and shift working

Due to the nature of the nursing profession, not all the flexible working options listed above are practical for all staff, particularly those based in the acute sector or working shifts.

While nursing is a 24-hour service, it is still important to incorporate choice by designing and operating work practices that realistically fit in with the lives of nursing staff.

Self-rostered shift working enables employees to negotiate shifts that suit their needs and/or rearrange shifts among themselves. Where self-rostering is effective there are often high levels of staff satisfaction with working hours.

To work effectively, the following should be in place:

- a transparent and agreed framework of principles to support the self-rostering procedure
- nursing managers must be willing to delegate accountability to staff for arranging rotas
- nursing managers should promote the use of self-rostering tools where staff are given appropriate control over setting shift patterns.
- managers should have the skills and support in place to implement policies on flexible working and shift design.

Standard 11 of the RCN's *Nursing Workforce Standards* states that rostering patterns for the nursing workforce should consider best practice on safe shift working and be agreed in consultation with staff and their representatives. Adequate notice of rostered shifts (minimum of six weeks) and changes to shift patterns should be given to staff.



8. Role of the RCN rep

Supporting members

This section outlines how you can support members to access flexible working.

Empower them to take the initiative and to do some preliminary thinking

- Signpost them to your organisation's policies and the process for making a flexible working request. You may wish to refer to our *Working Flexibly to Support a Healthy Work-life Balance: a guide for RCN reps* which details a range of flexible working options.
- Get them to think about the work-life balance that they would like to achieve and how flexible working arrangements could help them do this.
- Ask them to think about what some of the benefits might be to their team and wider organisation of their proposed pattern. Will other team members be negatively impacted?

Meet with them to discuss their request

- Talk through potential flexible working options with them.
- Manage their expectations about what can be realistically achieved with limited resources and service delivery demands – help them to recognise that not every request can be accommodated. Do not make promises to members that you cannot keep. It's important not to get emotionally involved in individual cases.
- Prepare for some of the questions their line manager might ask as this will help them have a better conversation. For example, if a later start would mean missing handover, could this be given by someone else?

Meeting with their manager

Suggest an initial informal discussion with their line manager about the possibilities and options first, especially if they are hesitant about making a formal request.

- Consider if there are any other alternative patterns that will help them achieve flexible working, or whether there are parts of their request that could be agreed. Ask their manager to consider other areas they would be interested to work in on a flexible basis.
- Explore alternatives if their manager is not able to agree to a request in their current work context. There may be other teams within the organisation where their request might be considered and agreed. For example, hours could be shared across two wards.

Promoting flexible working Partnership working

RCN reps have the opportunity to work in partnership with employers to improve the culture around flexible working and to implement realistic practices that benefit staff and have a positive impact on service delivery.

Consider the following actions:

- Get up to date with your organisation's HR strategy, business plan and relevant policies. Have they been reviewed recently and are they 'employee-friendly' good practice? If relevant, check if they have been updated to reflect the provisions in Section 33 of the *NHS Terms and Conditions of Service Handbook* (England and Wales).
- Ensure you are part of policy development. Request an invitation to the HR policy forum where policies are discussed prior to ratification or suggest a joint management and staff forum if there isn't one.
- Find out how staff feel about current provision. Does the lived experience of members reflect the aspirations of the policy? Request a staff survey or work with other reps in the organisation to seek feedback from members.
- Identify examples of best practice in similar organisations.

Ask members to let you know about schemes that they have heard about that work well elsewhere, so you can champion their introduction.

- Encourage the development of good monitoring and evaluation systems for employee-friendly policies to ensure processes are fair and equitable.
- Encourage members and teams to be supportive of other colleagues' needs to work flexibly.

Supporting managers

Managers are key to the success of any flexible working policy implementation, but that doesn't always mean that they have an understanding or experience of implementing flexible working arrangements.

Encourage managers to:

- become familiar with your organisation's flexible working policy
- regularly explore nursing staff's needs and wishes, sharing what options might be available to help staff think about whether they might make a request

- approach conversations about flexible working with individuals and teams openly and creatively - having regular conversations with teams about flexible working is valuable to help find solutions and accommodate team needs
- be flexible in thinking about new ways in which work/shifts can be organised and challenge traditional methods of working
- discuss flexible working options with staff approaching retirement
- discuss and negotiate re-entry strategies to work prior to or during maternity leave/a career break that takes account of the nursing staff's working time needs.

Case studies and useful tips for nursing staff and managers about practices that can facilitate employee-friendly working arrangements can be found in *Working Flexibly to Support a Healthy Work-life Balance: a guide for RCN reps*.

Further information

Royal College of Nursing:

www.rcn.org.uk/get-help/rcn-advice/flexible-working

Working Flexibly to Support a Healthy Work-life Balance: a guide for RCN representatives (RCN, 2022)

rcn.org.uk/working-flexibly

NHS Terms & Conditions Handbook:

nhsemployers.org/tchandbook

NHS Staff Council Guidance for joint union-employer partnerships on reviewing flexible working policies: nhsemployers.org/sites/default/files/2021-07/Joint%20negotiating%20guidance%20-%20reviewing%20flexible%20working%20policies_July2021.pdf

NHS England and NHS Improvement, the NHS Staff Council and Timewise have published two guides to support line managers and staff to work flexibly

nhsemployers.org.uk/news/new-flexible-working-guides-line-managers-and-staff

NHS Staff Council FAQs on flexible working contractual changes: The NHS Staff Council has developed a range of FAQs to help employers to embed the new contractual flexible working arrangements

nhsemployers.org/articles/flexible-working-faqs

Guide to making flexible working requests flowchart | NHS Employers
nhsemployers.org.uk/publications/guide-making-flexible-working-requests-flowchart

ACAS (2014) *Code of Practice 5: Handling in a reasonable manner requests to work flexibly*. Available online at: acas.org.uk/acas-code-of-practice-on-flexible-working-requests

Government guide to flexible working rights

www.gov.uk/flexible-working

In Northern Ireland government regulations and guidance can be found at: nidirect.gov.uk

The Labour Relations Agency promotes the improvement of employment relations in Northern Ireland and has a wealth of flexible working resources on its website

lra.org.uk

NHS Scotland's policy around flexible working currently forms part of the larger Supporting the Work-Life Balance Partnership Information Network.

[www.sehd.scot.nhs.uk/dl/DL\(2021\)29.pdf](http://www.sehd.scot.nhs.uk/dl/DL(2021)29.pdf)





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