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Signed off by: 	

## **FLEXIBLE WORKING ARRANGEMENTS POLICY**

### **1. POLICY STATEMENT**

- 1.1 This document outlines the Flexible Working Arrangements Policy and Procedure for the East of England Ambulance Service NHS Trust (the Trust). The Trust acknowledges the importance for employees of achieving a balance between work and family commitments. In order to comply with legislation, the Trust must consider flexible working requests from parents or legal guardians of children under the age of 6 or under 18 in the case of a disabled child. However, the Trust has made the decision to extend the right to request flexible working to all eligible employees.
- 1.2 All flexible working requests will be given due consideration. However, the Trust reserves the right to place restrictions on the operation of flexible working, where necessary, to ensure the effective operation of the service and in accordance with the permitted statutory grounds for refusal.
- 1.3 The Trust will consider flexible working options as part of their duty to make reasonable adjustments for disabled staff and job applicants under the Disability Discrimination Act, and the procedure outlined within this policy will be applied.
- 1.4 In consideration of flexible working requests, managers will be mindful that individual circumstances vary. Previous decisions will not set a precedent for future decisions. All applications for flexible working will be considered on an individual basis.
- 1.5 This procedure meets the requirements of the Employment Act 2002 and has been written in partnership by management and staff side.

### **2. SCOPE**

- 2.1 This policy applies to all eligible staff employed by the Trust.

### **3. ACCESS TO THE PROCEDURE**

- 3.1 All employees are entitled to access to this policy which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. Copies are also available from the Human Resources Department and any employee can seek guidance from line management, their trade union representative or the

Human Resources Department.

3.2 Employees and Managers may also wish to consult related Trust policies such as Special Leave, Career Breaks, Paternity Leave, Maternity Leave and Adoption Leave.

3.3 The DTI website <http://www.dti.gov.uk> provides useful general guidance in relation to Flexible Working Requests.

#### **4. ROLES AND RESPONSIBILITIES**

4.1 The Human Resources Department is responsible for keeping the provisions within this policy in line with employment legislation, best practice people management principles and NHS guidelines.

4.2 Managers, HR staff and trade union representatives are responsible for providing advice and guidance to employees on the application of this policy and procedure.

4.3 Management and trade union representatives are responsible for bringing any mutually beneficial improvements to this policy to the attention of the Trust.

4.4 Employees are responsible for obtaining information and advice and for providing such information and documentation as is necessary in order to secure these entitlements.

#### **5. ELIGIBILITY**

5.1 To have statutory eligibility to apply for flexible working arrangements, you must have at least 26 weeks continuous service at the date the flexible working request is made, and meet **all** of the following criteria:

- be an employee (working under a contract of employment);
- have a child under the age of 6, or under 18 in the case of a disabled child;
- be either the parent, adoptive parent, legal guardian or foster parent or be married to, or the partner of the child's mother, father, adopter, guardian or foster parent;
- make the application no later than 2 weeks before the child's cut off birthday (i.e. 6 or 18 years old);
- have, or expect to have, responsibility for the child's upbringing and be making the application in order to care for the child.

5.2 However, in line with Agenda for Change principles, the Trust has extended the right to request flexible working to **all** staff.

5.3 Where an employee has made a flexible working request, the Trust will give serious consideration to it but this does not mean employees have an automatic entitlement to the request being accepted.

5.4 Applications to work flexibly can only be made once in any 12 month period (except where statutory right under the Flexible Working Regulations 2002 allows an individual to do so).

## **6. TYPES OF FLEXIBLE WORKING REQUEST**

6.1 There are many different types of flexible working arrangements, which include:

- Reduction in working hours;
- Flexi-time;
- Part-time working;
- Job Sharing;
- Home working;
- Working term-time only;
- Compressed working hours;
- Annualised hours.

## **7. THE APPLICATION PROCEDURE**

7.1 The application process for all employees is shown as a flowchart in Appendix 1. This shows the procedural timescales as per the statutory requirements. However, it may not be possible for the Trust to adhere to these timescales for all requests.

7.2 For those employees who meet the statutory eligibility criteria as outlined in Section 5.1 above, the statutory time periods referred to in the flowchart in Appendix 1 and throughout the policy will strictly apply and may be extended only by the written agreement of both parties.

7.3 For employees who do not meet the statutory eligibility criteria as outlined in Section 5.1 above, the time periods referred to in the flowchart in Appendix 1 and throughout this policy should be seen as a guide only. Where the Trust is reasonably unable to meet these timescales, the employee will be advised of this together with the reason for it and the revised timescale that will apply.

7.4 Applications to request flexible working, must be submitted to your line manager for consideration and must be made in writing using the Flexible Working Application Form (Appendix 2). Applicants should ensure that the application is completed in full, as any omissions could cause a delay to the process. Your line manager will confirm the date of receipt of your application using the tear off slip at the bottom of the Flexible Working Application Form and notify the Human Resources department.

7.5 The proposed date for any new working pattern to commence must be no greater than 6 months from date of application, with the exception of those members of staff on maternity leave who are able to request new working patterns which would be effective from the date of return to work.

7.6 Within 28 calendar days of receiving your application for flexible working, your manager will consider your request and may either:

- agree to the changes and notify you accordingly in writing; or
- arrange a meeting with you to discuss the application.

7.7 For the purpose of this policy, an application is made when it is physically received. Where your line manager is absent due to sickness or annual

leave, the period of 28 calendar days commences on the day they return to work, or 28 days after the application is made, whichever is the sooner.

## **8. FLEXIBLE WORKING REQUEST MEETING**

- 8.1 The time and place of the meeting should be convenient to both the employee and the manager.
- 8.2 Employees are entitled to bring a trade union representative or a work colleague to support them at this meeting, if they wish. They are not permitted to bring someone acting in a legal capacity.
- 8.3 A member of the Human Resources Department may also be present at the request of the manager or employee.
- 8.4 Within 14 calendar days of the meeting, the line manager will inform the employee in writing of their decision.
- 8.5 If the manager needs more time to come to a decision, they must obtain the written agreement of the employee for an extension to the 14 days in which to inform them of a decision following the meeting.
- 8.6 The manager may use their discretion in exceptional circumstances, and where it is reasonably practical to do so, to agree with the employee a trial period of a requested flexible working arrangement. This may be to establish whether a proposed new working pattern is suitable for both parties in the long term. At the end of any such trial period, the initial flexible working request meeting should be reconvened to enable a decision to be reached. The undertaking of a trial period does not constitute agreement of the Flexible Working Request.

## **9. AGREEMENT**

- 9.1 If the Trust is able to agree to the flexible working request of an employee, their contract of employment will be **permanently** changed.
- 9.2 In exceptional circumstances, a line manager and employee may agree to further changes but neither party would have an automatic right to insist on further changes. The employee has no right to revert back to their previous working pattern as the change is permanent.
- 9.3 Further applications for flexible working cannot be made **until 12 months has elapsed** since the request was made, whether the first request was successful or not (except where statutory right under the Flexible Working Regulations 2002 allows the individual to do so).
- 9.4 Where the flexible working request is agreed, a written notice will be sent out to the employee within 14 calendar days. It will specify the agreed contract variation and the date on which the new flexible working arrangements are to take effect.
- 9.5 A sample agreement letter for use by managers is available from the Human Resources Department.

## **10. REFUSAL**

10.1 A flexible working request may be refused on one or more of the following grounds:

- Burden of additional costs;
- Detrimental effect on the ability to meet customer demand;
- Inability to reorganise work among existing staff
- Inability to recruit additional staff;
- Detrimental impact on quality;
- Detrimental impact on performance;
- Insufficiency of work during the periods the applicant proposes to work;
- Planned structural changes.

10.2 If the Trust refuses the request, the employee will be advised in writing. This will state on which of the permitted grounds the request was refused.

10.3 A sample refusal letter for use by managers is available from the Human Resources Department.

## **11. WITHDRAWAL OF THE APPLICATION:**

11.1 The Trust will consider that a flexible working request has been withdrawn in the following circumstances:

- Where an employee has notified the line manager orally or in writing that they wish to withdraw their request;
- Where an employee has, without reasonable cause, failed more than once to attend a meeting or appeal meeting;
- Where an employee has, without reasonable cause, refused to provide the line manager with information required in order to assess whether the request can be accommodated.

11.2 The line manager should confirm the withdrawal of the request to the employee in writing using the sample letter available from the Human Resources Department, unless the employee has already provided written notice of the withdrawal in which case an acknowledgement should be sent.

11.3 An employee who withdraws their application, or whose application has been withdrawn will not be eligible to make another application for twelve months from the date their original application was made (except where statutory right under the Flexible Working Regulations 2002 allows the individual to do so).

## **12. APPEAL PROCEDURE**

12.1 The employee is entitled to appeal against the Trust's decision to refuse a flexible working request. This must be done in writing within 14 calendar days of receipt of the refusal letter using the Appeal Form at Appendix 3.

12.2 The notice of appeal must be made to the Human Resources department, setting out the grounds for appeal. It must be signed and dated.

- 12.3 The appeal would normally be heard by the line managers' manager or as determined by the Staff Partnership Forum (see Section 13 below).
- 12.4 The manager hearing the appeal will arrange a flexible working request appeal meeting with the employee within 14 calendar days of receipt of the appeal notice.
- 12.5 Employees are entitled to bring a trade union representative or work colleague to support them at this meeting, if they wish. It is not permitted to bring someone acting in a legal capacity.
- 12.6 The manager who hears the appeal will give written, dated notice of their decision within 14 calendar days of the appeal meeting.
- 12.7 Where the Trust allows the appeal (i.e. the request for flexible working is agreed), the decision notice must specify the contract variation agreed to and the date on which it is to take effect. Section 9 of this policy would then apply.
- 12.8 Where the Trust upholds the decision of the initial meeting (i.e. the request to flexible working continues to be refused), the notice will state the grounds for this refusal and contain sufficient explanation as to why these grounds apply.
- 12.9 A written notice of the appeal outcome constitutes the Trust's final decision.
- 12.10 The Grievance Procedure will not be open to an employee who disagrees with the Trust's decision on a flexible working request or appeal decision. The Grievance Procedure may, however, be invoked in relation to procedural issues.

### **13. STAFF PARTNERSHIP FORUM AND APPEAL PANEL COMPOSITION**

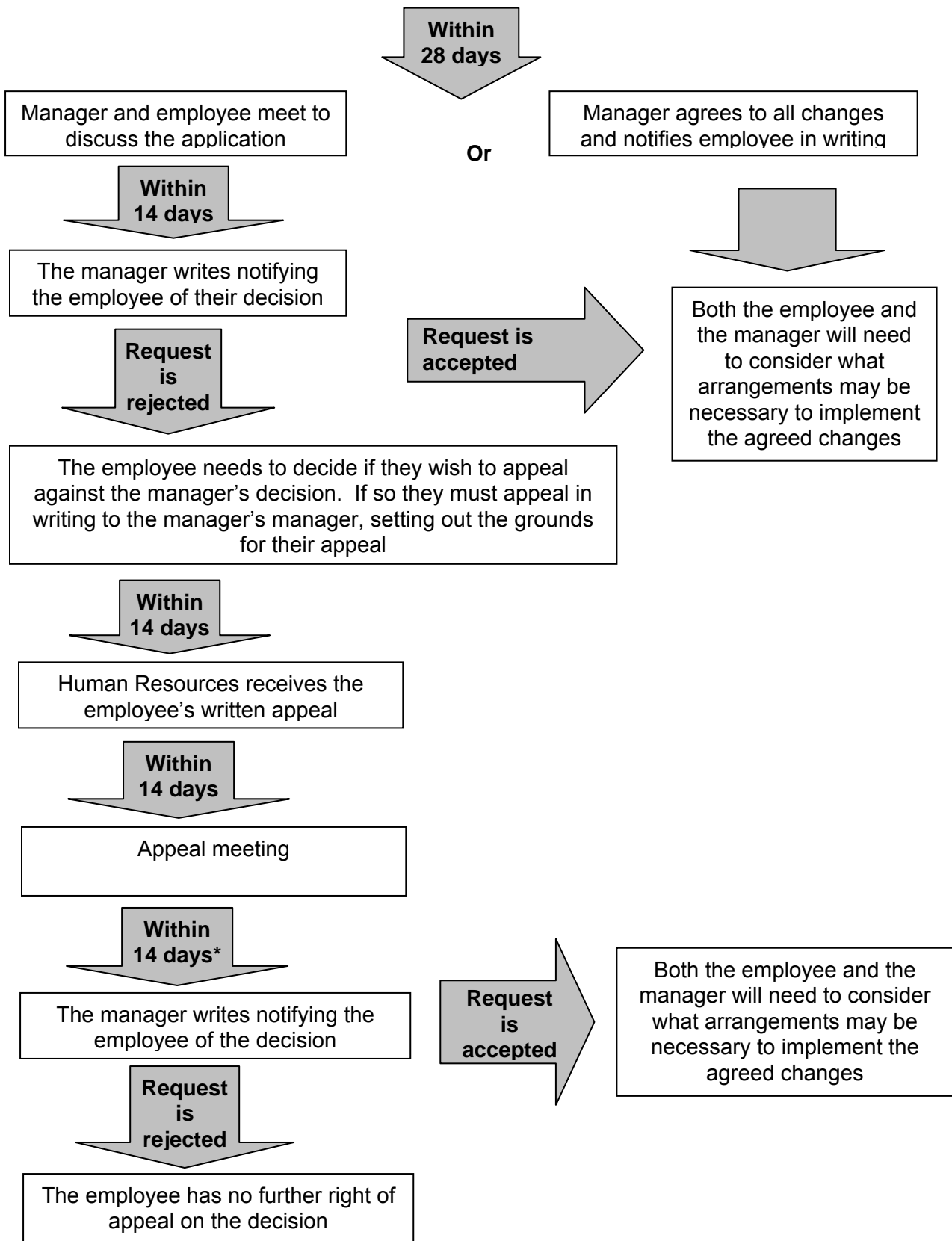
- 13.1 It is the principal of this policy that flexible working request appeals should be heard at the lowest appropriate level of the Trust management structure by a manager within the employees Directorate or functional area, thereby facilitating the resolution and timeliness of the request process. This will also promote ownership of the issue and its resolution by line managers.
- 13.2 All appeals will be heard by a more senior manager than that who made the originating flexible working request decision.
- 13.3 Decisions on the composition of flexible working request appeal panels within the Trust will ultimately rest with the Trust's Staff Partnership Forum. This decision making responsibility will be delegated to designated senior members of the Human Resources Department and staff-side members of the Staff Partnership Forum. Any such panel composition decisions will therefore be made in partnership between one member of staff-side and one of the nominated members of the Human Resources Department.

### **14. POLICY REVIEW**

- 14.1 This policy will be reviewed on an annual basis or amended in the light of new employment legislation and/or relevant case law.

## **APPENDIX 1**

Employee makes application for flexible working using <i>Flexible Working Application Form</i>
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**FLEXIBLE WORKING APPLICATION FORM**

<b>Name of employee:</b>	
<b>Job title:</b>	
<b>NHS Continuous Service Start Date:</b>	

Please complete either Section A or Section B below, as applicable.

**SECTION A: STATUTORY ELIGIBILITY**

**I would like to apply to work a flexible working pattern that is different to my current working pattern, under my right provided by law and in line with the Trust's Flexible Working Arrangements Policy. I confirm I meet each of the eligibility criteria as follows:**

**I have responsibility for the upbringing of a child under age 6 or a disabled child under age 18 years.**

**I am the parent, adoptive parent, legal guardian or foster parent of the above child or married to, or the partner of the child's mother, father, adopter, guardian or foster parent.**

**I am making this application in order to care for the child.**

**I am making this request no later than 2 weeks before the child's 6<sup>th</sup> birthday or 18<sup>th</sup> birthday where disabled.**

**I am an employee and have worked continuously for the Trust for the last 26 weeks.**

**I have not made a request to work flexibly under the statutory right during the past 12 months.**

(If a previous application to work flexibly has been made, please provide the date)

Please tick below as appropriate:







.....

**SECTION B:**

**I would like to apply to work a flexible working pattern that is different to my current working pattern, in line with the Trust's Flexible Working Arrangements Policy. I confirm:**

**I have not made a request to work flexibly under the Trust's Flexible Working Arrangements Policy during the past 12 months.**

(If a previous application to work flexibly has been made, please provide the date)

.....

If you ticked (affirmed) all the questions in Section A, you have statutory eligibility to apply for flexible working. Your application will be dealt with in the statutory timescales outlined within the Flexible Working Arrangements Policy (or these may be extended by agreement by both parties).

The Trust extends the right to request flexible working to all eligible employees, and Section B should be completed. Your application will be dealt with within the statutory timescales outlined with the Flexible Working Arrangements Policy, however the Trust reserves the right not to be bound by these, and to extend these timescales within reason. Any amendments will be put in writing to you.

**All applicants must complete the following sections:**

**The reasons for my request to work flexibly are as follows (please continue on a separate sheet if necessary):**

**Describe your current working pattern (days/hours/times worked):**

**Describe the working pattern you would like to work in the future (days/hours/times worked):**

**I think this change in my working pattern will affect my employer and colleagues as follows:**

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

I would like this new working pattern to commence from:

Proposed date must be no greater than 6 months from date of application, with the exception of those members of staff on maternity leave who are able to request new working patterns which would be effective from the date of return to work.

I understand that the right of application for flexible working does not imply a right to vary my hours and that variation of days/hours/shift patterns is at management discretion, in accordance with the needs of the Trust.

I understand that if my request is agreed this will result in a permanent change to my contract of employment, and I have no right in law to return to my previous working pattern.

Signed:

Name (printed):

Dated:

*For Line Managers use only:*

Signature of Line Manager:

Date received:

*For the Human Resources Department use only:*

Date received by the HR Department: \_\_\_\_\_

Date letter issued: \_\_\_\_\_

Meeting arranged for: \_\_\_\_\_

------(Cut)

**Employer's Confirmation of Receipt** (to be completed and returned to employee)

I confirm receipt of your flexible working application form on:

I shall contact you within the next 28 days to arrange a meeting to discuss this application, or accept your request.

Signed (line manager):

Date:

**FLEXIBLE WORKING APPEAL FORM**

**Note to employee:** Appeal forms to be submitted within 14 days of receiving written notification that your application for flexible working has been turned down.

Dear: \_\_\_\_\_

I wish to appeal against the decision to refuse my application for flexible working. I am appealing on the following grounds:

(Please continue on a separate sheet if necessary).

Further information in support of my appeal is included below (where appropriate):

I understand that the written notice of the appeal outcome constitutes the Trust's final decision.

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**FLEXIBLE WORKING - ACCEPTANCE FORM**

*Response to Employee: decision to be issued within 14 days following the meeting if applicant has statutory eligibility to apply, and where possible within 14 days for all other applications.*

***NB – Please consult with the Human Resources Department before issuing this decision letter.***

Dear \_\_\_\_\_ Employee Number \_\_\_\_\_

Following receipt of your application and our meeting on \_\_\_\_\_  
I have considered your request for a new flexible working pattern.

- I am pleased to confirm that I am able to accommodate your application.
- I am unable to accommodate your original request. However, I am able to offer you the alternative pattern which we have discussed and you agreed would be suitable to you.

Your new working pattern will be as follows:

Your new working arrangements will commence on: \_\_\_\_\_

Please note that this change in your working pattern will be a **permanent** change to your terms and conditions of employment and you have no right in law to revert back to your previous working pattern. Furthermore, you will not be eligible to make any further flexible working requests within a 12 month period.

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**FLEXIBLE WORKING - REJECTION FORM**

*Response to Employee: decision to be issued within 14 days following the meeting if applicant has statutory eligibility to apply, and where possible within 14 days for all other applications.*

***NB – Please consult with the Human Resources Department before issuing this decision letter.***

Dear \_\_\_\_\_ Employee Number: \_\_\_\_\_

Following receipt of your application and our meeting on \_\_\_\_\_  
I have considered your request for a new flexible working pattern.

I am sorry but I am unable to accommodate your request on the following business ground(s):

- Burden of additional cost
- Detrimental effect on the ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the applicant proposes to work
- Planned structural changes

The grounds apply in the circumstances because:

Other work patterns that we discussed at the meeting are also inappropriate because:

If you are unhappy with the decision you may appeal against it. If you wish to appeal, you must write to your employer, setting out the grounds for your appeal, within 14 days after receiving written notice of this decision. Details of the appeal procedure are set out with the Flexible Working Arrangements Policy.

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**FLEXIBLE WORKING FORM - APPEAL REPLY**

*Response to Employee: to be issued within 14 days following the appeal meeting if applicant has statutory eligibility to apply, and where possible within 14 days for all other applications.*

**NB – Please consult with the Human Resources Department before issuing this decision letter.**

Dear \_\_\_\_\_ Employee Number: \_\_\_\_\_

Following our meeting on  
I have considered your appeal against the decision to refuse your flexible working request application.

**ACCEPTANCE:**

I accept your appeal against the decision. I am therefore able to accommodate your original request to change your working pattern as follows:

Your new working arrangements will begin from:

Please note that the change in your working pattern will be a **permanent** change to your terms and conditions of employment and you have no right in law to revert back to your previous working pattern. Furthermore, you will not be eligible to make any further flexible working requests within a 12 month period.

**REFUSAL:**

I am sorry but I must reject your appeal on the following ground(s):

- Burden of additional cost
- Detrimental effect on the ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the applicant proposes to work
- Planned structural changes

The ground(s) apply because:

(continue on separate sheet if necessary)

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**FLEXIBLE WORKING FORM -  
CONFIRMATION OF WITHDRAWAL OF APPLICATION**

Dear \_\_\_\_\_ Employee Number: \_\_\_\_\_

In line with statutory provisions and the Trust's Flexible Working Arrangements Policy, it is considered that your flexible working request has been withdrawn in the following circumstances:

- you have notified your line manager orally/in writing (delete as appropriate) that you wish to withdraw your request.
- you have, without reasonable cause, failed more than once to attend a meeting or appeal hearing.
- you have, without reasonable cause, refused to provide your line manager with information required in order to assess whether the request can be accommodated.

In line with the Trust's Flexible Working Arrangements Policy, an employee that withdraws their application, or whose application has been withdrawn in line with statutory provisions, will not be eligible to make another application for twelve months from the date their original application was made (except where a statutory right under The Flexible Working Regulations 2002 allows them to do so).

If you have any questions on the above information provided on this form please contact me to discuss them as soon as possible.

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_