



CHARTERED
SOCIETY
OF
PHYSIOTHERAPY

Building a better balance

Flexible working information pack
for physiotherapy service managers



Valuing and motivating your staff

Employers are increasingly recognising the benefits of flexible working as an essential recruitment and retention tool. Physiotherapy managers in all sectors are reporting escalating difficulties recruiting staff in a variety of grades, clinical specialisms and settings.

This guide to flexible working for managers has been produced as part of the suite of materials for the CSP's 'Building a better balance' campaign which aims to raise awareness about flexible working and give practical advice on ensuring that alternative working patterns work well for staff, employers and patients alike. At a time when services are being cut and subject to efficiency reviews and staff shortages and workloads are increasing, requests for flexible working arrangements can seem challenging and difficult to manage.

Managers may be concerned that if they agree to one request, they will be overwhelmed with further requests. We strongly believe that taking a positive and pro-active approach to flexible working can help improve productivity, reduce stress and make staff feel valued and motivated as they achieve the work life balance they need. The initial time and effort taken to accommodate and negotiate requests can pay huge dividends.

We hope you find this guide useful. Visit the campaign web page www.csp.org.uk/balance for more information and to access case studies from CSP managers, stewards and members who have successfully implemented a variety of working arrangements. Speak to your CSP steward for further information and to discuss how flexible working can support your CSP members.

Jill Taylor, Chair CSP Employment Committee

September 2021

Section 1

Introduction

Flexible working is an important issue for CSP members affecting both women and men who want to achieve the work/life balance that is right for them. Seven in 10 CSP members are female and well over half are aged 40 or below with many having children to care for.

In a 2016 survey of CSP stewards 44 per cent said they had supported members working in the NHS seeking flexible working arrangements in the past two years. Nearly one in five said that they were aware of members leaving their NHS job because they could not negotiate the flexible working arrangements they needed.

Flexible working provides benefits to both staff and employers. At a time when pay increases are low this can be particularly important as a way for employers to attract and retain staff.

There are many members who can benefit from flexible working arrangements including:

- women returning from maternity leave wanting to combine work and family life
- older members looking to reduce their hours prior to retirement
- men who want to take on a greater role in childcare
- those needing to combine work with caring for elderly or sick relatives
- those with long term health conditions or disabilities

Employers are required to consider flexible working options as part of their duty to make reasonable adjustments for disabled staff and job applicants under the Equality Act and to support staff who undertake daily religious observance or a holy day.

Section 2

What is flexible working?

Flexible working is any type of working arrangement that gives some degree of flexibility on how long, when and where an employee works.

It can cover a range of options but the ones most commonly found in physiotherapy include:

- **part-time working** – working less than the standard hours for the job (37.5 per week in the NHS for example)
- **job sharing** – sharing the duties and responsibilities of the post with another employee
- **compressed hours** – working full time hours over fewer, longer days (eg four days instead of five)
- **staggered hours** – different starting, break and finishing times for employees
- **annualised hours** – where an employee's contract provides for the total number of hours to be worked over the year, allowing flexible working patterns to be worked throughout the year

- **flexitime** – where an employee can choose, within certain limits, when to begin and end their working day provided they cover set core hours and work an agreed number of hours within a set accounting period, usually a month
- **flexible rostering** – using periods of work of differing lengths within an agreed overall period
- **term time working** – where an employee reduces their hours or takes time off during school holidays. Any weeks above their annual leave entitlement when they do not work will be unpaid



Section 3

Benefits of flexible working

There is a raft of evidence about the benefits that flexible working can bring to both CSP members and their employers and the beneficial impact on patient care.

- can help the employer retain valued and experienced staff who are able to balance the demands of work and their home life resulting in them feeling more satisfied and motivated
- increases productivity, loyalty and morale leading to better quality patient care and outcomes
- avoids the high costs of recruiting and inducting new staff along with the impact on existing staff of covering vacancies and supporting new people
- where flexible working is promoted in job adverts this will increase the pool of potential applicants rather than limiting it only to those prepared to work full time
- increases the diversity of employees ensuring they better reflect the patient population
- provides an attractive recruitment benefit especially in areas and specialities where managers are struggling to recruit
- can help provide cover for extended service hours
- job sharing brings the benefit of two sets of skills and experience to the post
- staff will be more refreshed if working part time and better able to cope with the rigorous mental and physical demands of the job
- in a variety of organisations productivity has been shown to improve among those allowed flexible working arrangements
- encourages more women to apply for leadership roles, if available on a flexible basis, helping to address their under-representation in senior jobs
- studies in the NHS have shown that in organisations where staff well-being is good, this has a positive impact resulting in good patient experiences and outcomes

Section 4

Right to request and best practice

The right to request flexible working is a statutory right that applies to employees who have been employed by their current employer for at least 26 weeks by the time they make their request.

However, the NHS' contractual terms and conditions handbook gives all staff in England, Wales and Northern Ireland a right to make flexible working requests from day one of employment. Outside the NHS, the CSP encourages managers to take a more flexible approach and to be open to having discussions with staff from the start of their employment about their flexible working options. This is best done on an informal basis rather than waiting for staff to put in formal requests.

The statutory provisions only allow an employee to submit one request a year. Again the CSP view is that being open to more than one approach within a year is good practice given that employees' personal circumstances can change at short notice and mean that they need a different working pattern to enable them to balance work and family life. NHS staff have a contractual right to make multiple formal requests within any one year period.

Many employers in both the NHS and other sectors have local flexible working policies so managers should make sure that they are familiar with them. The employer may also have a standard template for staff to use to submit their application.

The NHS terms and conditions handbook strongly encourages a positive approach for all employees regardless of grade. Section 33.3 states that 'where possible [the NHS] need[s] working practices which ensure staff can work in a manner that best suits their personal needs and preferences'.

When advertising any job, [NHS employers] will need to consider how they promote the right to request flexibility from day one and the availability of flexible working options.

To support a positive culture of flexible working, employers will need to consider how they support and encourage open conversations about flexible working."

Sections 33.7 - 33.8

There are additional provisions covering women returning from maternity leave who want to reduce their hours.

If, at the end of the maternity leave, the employee wishes to return to work on different hours, the NHS employer has a duty to facilitate this wherever possible. The employee will return to work on different hours, in the same job. If this is not possible, the employer must provide written, objectively justifiable reasons for this and the employee should return to the same pay band and work of a similar nature and status, to that which they held prior to their maternity absence."

Section 15.38

What to do on receiving a request

The employer must deal with a request in a reasonable manner and give a decision within 3 months of receiving the request. Although 'reasonable manner' is not defined in the law, the ACAS Code of Practice says that employers should:

- consider the request
- arrange a meeting with the employee as soon as possible where they can be accompanied by a work colleague (eg their CSP steward)
- discuss the request with the employee in a private place where the discussion will not be overheard
- consider the request by looking at the benefits of the employee's request and weighing this against any adverse business impact
- inform the employee of their decision in writing as soon as possible

ACAS recommends having a trial period after which you will all meet to review how things are going, resolve any problems and see if it is sustainable in the long term.

For more information on procedures, including the different timescales and processes that apply in Northern Ireland, see Building a better balance: flexible working information pack for CSP stewards available on the CSP website www.csp.org.uk/balance

NHS employers' policies should be agreed with trade union staff sides, and meet the expectations of Section 33 of the NHS terms and conditions handbook introduced September 2021

Section 5

Responding to requests (reject with caution!)

The employer can refuse a request but under the statutory provisions it has to be for at least one of the following eight business reasons:

- extra costs that will damage the business
- inability to re-organise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental effect on the ability to meet customer demand
- detrimental impact on performance
- insufficiency of work during the periods the employee proposes to work
- planned structural changes (eg a re-organisation)

Here are some of the more common reasons for requests being refused and the potential implications if they are rejected without proper consideration.

Remember that if you do decide to reject a request you will need to be able to show that you have given it serious consideration first and provide written reasons explaining why you have refused.

NHS employers are expected to agree an escalation process for requests that could not be mutually agreed. See Sections 33.14 to 33.18 of the NHS terms and conditions handbook.

A blanket rejection on grounds of cost would need to be backed up by evidence of how you have calculated this. ACAS recommends that employers take account of whether there are less obvious savings such as a reduction in overheads, better coverage of service (eg being able to offer extended hours services to patients) or increased outputs.

ACAS recommends that employers consider the **cost of recruiting additional staff** against the cost of losing the existing person making the request. So a refusal based simply on the grounds of problems recruiting to other posts may be challenged.

A policy which only supports either full time or half time hours can also be problematic and could be considered discriminatory. As women tend to have more childcare responsibilities than men, insisting that women work long or inflexible hours can be direct sex discrimination. The same principles could apply where women employees need flexible work because of other caring situations. Men cannot claim indirect sex discrimination for childcare reasons but if a man is refused flexible working in a situation where women doing similar jobs are allowed to work flexibly, this could be direct discrimination.

Detrimental impact on patient care. There may be unexpected benefits – for example compressed hours can provide more staff cover at peak times or extra cover at lunch times. Job sharers may provide cover for at least part of the week when one partner is on leave or off sick.

The service may also benefit from the additional responsibilities that more than one part time worker can take on. In one job share partnership one physiotherapist was dementia champion

and the other a quality assurance lead. It is unlikely that one post holder would have taken on both additional roles. Additional staff also means potentially additional cover for on-call rotas.

Finding a job share partner will be difficult. You will need to show that you have made reasonable efforts to find a job share partner from inside and outside the organisation. There may be existing staff or someone currently on maternity leave who would be interested in job sharing.

Managing lots of part timers is too time consuming. There may be extra costs in terms of training or attendance at staff meetings but these may not be as much as you expect. The benefits – such as two sets of skills and experience, views and ideas and motivated staff happy with their work-life balance – will bring improvements to service delivery and staff retention.

It will make managing the on call rota even more difficult. The participation of part time staff on the rota must be determined locally and will depend on the extent of the on call service provided and the size of the department. Your CSP steward will be able to help you ensure that there is a fair, transparent and agreed process within the department. This should include eligibility/exemption from the rota; expected frequency of on calls; arrangements for covering sickness; compensatory rest arrangements. A request for flexible working could include coming off the on call rota as well as a change to hours or days of work. Again the employer is not obliged to grant such requests but they must provide written, objective reasons why it cannot be accommodated.

Section 6

10 steps to make flexible working work for you

- 1 Take a pro-active approach to flexible working by making sure that staff know you are open to discussions about the various options available regardless of their grade or duties.
- 2 Encourage staff to talk to you informally about their options as far in advance as possible to allow plenty of time to negotiate, speak to other staff and iron out any potential problems. Work with your local CSP steward to come up with a plan that meets the needs of both the service and the employee.
- 3 Get your local CSP steward involved – they may have dealt with similar issues or be aware of successful flexible working arrangements operating in other services. They should also have a copy of the CSP information pack on flexible working and may have attended our recent training event.
- 4 If you have concerns about a proposal discuss trialling the new arrangement for a set period as recommended by ACAS. Agree a timeframe and then hold a review meeting with the member of staff and their CSP steward to identify any problems and how they can be overcome.
- 5 Familiarise yourself with your employer's policy on flexible working (as well as the NHS provisions if relevant). Make sure you are aware of the timescales and procedures that apply for responding to requests.
- 6 If the proposal will result in some vacant hours speak to other staff to find out if they might want to increase their hours or if any others want to reduce theirs allowing you to combine the hours into a new post. If your organisation has a history of refusing flexible working requests staff may not approach you to discuss options, expecting a negative response.
- 7 Could any spare hours provide an opportunity for a lower grade member of staff to get experience at a more senior level eg by job sharing with a more experienced partner? Make sure to maintain a separation of the two roles.
- 8 If you are struggling to recruit to vacant posts make sure any adverts make clear your willingness to discuss flexible working options – this could increase your pool of applicants and make you stand out as an employer of choice.
- 9 Think about your own needs – would a flexible working arrangement enhance your work-life balance? There are lots of examples of senior and managerial grades successfully working as job sharers or in other flexible ways. Leading by example is an excellent way to show your commitment.
- 10 Visit the CSP Building a better balance web page for more information www.csp.org.uk/balance



Section 7

Further reading

CSP Information

For more information about the Building A Better Balance campaign including good practice case studies
www.csp.org.uk/balance

Further ERUS information papers are available on the CSP website
www.csp.org.uk

UK Information (excluding Northern Ireland)

ACAS (Advisory, Conciliation & Arbitration Service) website:
www.acas.org.uk

- ACAS Code of Practice 5: Handling in a reasonable manner requests to work flexibly, June 2014
- The right to request flexible working: an ACAS guide, June 2014
- Flexible working and work-life balance, ACAS, June 2015

Government guide to flexible working rights
www.gov.uk/flexible-working/overview

Northern Ireland Information

Government regulations and guidance can be found at
www.nidirect.gov.uk or use this direct link
<https://tinyurl.com/15hr39t>

Advice to employers from Invest Northern Ireland on behalf of the Northern Ireland Executive **URL SHORT TO COME...**

Labour Relations Agency guidance on flexible working
www.lra.org.uk or use this direct link <https://tinyurl.com/18z52qv>

Other sources of information and advice

NHS terms and conditions handbook www.nhsemployers.org/tchandbook

NHS Staff Council joint statement on flexible working **URL to come...**

Maternity Action – campaigns for the rights of mothers and new parents and supported CSP in the production of this pack
www.maternityaction.org.uk

Working Families - supports and gives a voice to working parents and carers, whilst also helping employers create workplaces which encourage work/life balance for everyone
www.workingfamilies.org.uk





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