

# **NHSScotland Flexible Work Pattern Policy**

## **Equality Impact Assessment Results**

**November 2023**

## Equality Impact Assessment Results

<b>Title of Policy</b>	NHSScotland Flexible Work Pattern Policy
<b>Summary of aims and desired outcomes of Policy</b>	<p>The aim of the policy is to provide a framework to support:</p> <ul style="list-style-type: none"> <li>• employees when considering and requesting options for a flexible work pattern</li> <li>• managers when considering, agreeing, or proposing options for a flexible work pattern</li> </ul> <p>This is a refresh of the previous Model Flexible Working Policy, Model Job-share Policy, Model Reduced Working Year Policy and Model Annualised Hours Policy within the extant Supporting the Work Life Balance PIN Policy (July 2015).</p>
<b>Directorate</b>	Health Workforce

### 1. Executive summary

The Equality Act 2010 places a duty (known as the Public Sector Equality Duty, or PSED) on public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity, and promote good relations between people who share a protected characteristic and those who do not. The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (Regulation 5) require public authorities to assess and review policies and practices against the three needs of the PSED.

The Scottish Government has undertaken national equality impact assessments (EQIAs) as part of the policy development process to refresh the extant NHSScotland Partnership Information Network (PIN) workforce policies. This EQIA Results Report provides a summary of the key findings from the EQIA Record prepared for each workforce policy.

The EQIA evaluates how a policy may affect different segments of the population both positively and negatively. If adverse effects are identified, efforts have been made to reduce or remove them. However, the focus is not solely on negating negative impacts, as there is also a proactive duty to promote equality. The development of the EQIA has been guided by equality legislation and addresses the protected characteristics of age, disability, gender reassignment, sex, pregnancy and maternity, race, religion or belief, and sexual orientation.

The NHSScotland Flexible Work Pattern Policy has been equality impact assessed, and it has been determined that there are no barriers to any of the protected characteristics. The NHSScotland Flexible Work Pattern Policy is expected to positively impact on eliminating unlawful discrimination, harassment and victimisation across all protected characteristics. In particular, in relation to age, disability, sex, maternity, gender reassignment, religion or belief and intersectionality. Additionally, it will advance equality of opportunity across all protected characteristics and promote good relations among and between different age groups and between disabled and non-disabled people. There is no evidence of negative

impacts on people with protected characteristics. The key findings section below provides a summary of the policy's impact on individuals with protected characteristics.

Scottish Government is committed to actively considering equality impacts during the implementation of the NHSScotland workforce policies. This EQIA will be subject to further review and revision to ensure that any negative impacts, whether direct or indirect, on individuals with protected characteristics are addressed and mitigated.

## **2. Background**

The 'Once for Scotland' Workforce Policies Programme was commissioned by the Scottish Workforce and Staff Governance Committee to review and transform existing workforce policies [previously known as Partnership Information Network (PIN) Policies] in line with the following vision:

'Once for Scotland Workforce policies will promote NHSScotland as a modern, exemplar employer; showcasing our core values, and promoting consistent employment policy and practice that supports the implementation of the Staff Governance Standard and effective recruitment and retention.'

The refreshed NHSScotland Flexible Work Pattern Policy reflects feedback from regional engagement events pre- and mid-policy development and formal consultation with a broad range of stakeholders. An invite to participate in the public consultation was sent to a wide range of stakeholders across NHS Boards and their staff networks, trade unions and professional organisations, and external protected characteristics equalities groups. Additional advice was sought from subject matter experts.

The policy, and associated supporting documents, set the standard for employment practice for all NHS Boards in Scotland, and are accessible through the [NHSScotland Workforce Policies website](#). These are adopted by NHS Boards, at a local level, to ensure a fair and consistent approach to the processes relating to employees requesting a change in their work pattern.

The fair and consistent application of policy and treatment of staff working for the NHS in Scotland is the key driver for the move to a single policy position.

NHSScotland workforce policies support the requirements of the [Staff Governance Standard](#) (2012), in relation to the following five strands:

- well informed
- appropriately trained and developed
- involved in decisions
- treated fairly and consistently
- provided with a safe working environment

## **3. The Scope of the EQIA**

On the basis that the policy and associated supporting documents set the standard for employment practice for all NHS Boards in Scotland to follow, a full EQIA was deemed appropriate.

The EQIA is based on a thorough analysis of existing evidence and data. Its purpose is to identify and understand the potential impacts that the NHSScotland Flexible Work Pattern

Policy may have on individuals with protected characteristics, as defined in the Equality Act 2010.

Specifically, the EQIA assesses the impacts of applying the revised policy against the needs relevant to a public authority's obligations under the Public Sector Equality Duty. The needs are to:

- eliminate discrimination, harassment and victimisation
- advance equality of opportunity
- foster good relations

In addition to the stakeholder engagement noted above, evidence was gathered from a broad range of sources. Data was reviewed from the following national data sets:

- NHSScotland Workforce data
- The Scottish Household Survey
- Labour market statistics

During the consultation on the draft policy, there was a specific question aimed at gathering views on how the policy might impact on different equality groups.

In addition to the protected characteristics outlined in the Equality Act 2010, the exercise also considered broader socio-economic considerations in alignment with the commitment to the Fairer Scotland Duty. The findings are recorded in the Fairer Scotland Duty Results for the collection of Supporting Work Life Balance policies.

#### 4. Key Findings

The EQIA has highlighted areas with potential impacts on different groups and opportunities for promoting equality.

The NHSScotland Flexible Work Pattern Policy is expected to have a positive effect in **eliminating unlawful discrimination, harassment and victimisation**. This is particularly evident in relation to age, disability, sex, maternity, gender reassignment, religion or belief and intersectionality. The Flexible Work Pattern Policy:

- recognises that the need for flexible working may occur at any age during someone's career. For example, looking after children or elderly parents. The policy and guides highlight that a flexible work pattern is available for a variety of reasons and not only for the traditional family friendly aspects of childcare.
- the reasons for requesting a flexible work pattern have been expanded to include disability, mental health and long-term health conditions.
- offers a formal route to request a flexible work pattern as a reasonable adjustment for a disability. While all employees have the statutory right to request flexible working, there is a specific legal requirement to consider reasonable adjustments for disability. The guides specifically highlight the need to consider reasonable adjustments under this policy or in another way.
- promotes diversity and normalises disability and long-term conditions in the NHSScotland workforce.
- helps employees balance personal and professional responsibilities. This is particularly important in NHSScotland given the predominantly female workforce (78.8%) who largely take on primary caring roles within the family.
- guides have been updated to raise awareness of the gendered nature of the need for flexible working, acknowledging the disproportionate impact of caring responsibilities on female staff. The data suggests that female employees in the

NHS can access a flexible work pattern, with a slightly higher percentage of part-time female staff compared to the general labour force.

- although evidence shows that women disproportionately take on caring and domestic responsibilities, the policy adopts gender-neutral language and is open to all employees. It allows both males and females to benefit and potentially become more involved in undertaking caring and domestic responsibilities.
- implemented well, the policy can support women returning from maternity leave. The guides promote and normalise the idea that employees returning from maternity leave may want to review their work pattern to accommodate caring responsibilities.
- can have a positive impact on gender reassignment by providing support for employees who may need flexible working arrangements during their transition.
- may help employees balance work and aspects of their personal life, including religious practices such as observing Ramadan or prayer rituals.
- can have a positive intersectional impact. Recognising that disabled women face multiple barriers, supporting disabled women with flexible working can help them manage their conditions and caregiving responsibilities. Flexible working can support victim-survivors of gender-based violence by allowing changes in work pattern or location. Minority ethnic women and migrant women may lack a local family support network, making flexible working policies particularly beneficial.
- reinforces compliance with the Equality Act (2010) and the [Principles and Values | NHS Scotland](#).
- is written to fulfil legislative requirements and comply with statutory responsibilities.

The Flexible Work Pattern Policy has a positive impact in **advancing equality of opportunity** across all protected characteristics. The Flexible Work Pattern Policy:

- is for the use of all NHSScotland employees. It enables individuals to request a change to their work pattern.
- acknowledges that the need for, and access to, flexible working is gendered. As a major employer with a workforce comprising 78.8% females, implementing this policy will support a substantial number of women in accessing flexible working options. It also supports employees continue employment after having a baby and advance equality.
- is accessible through a purpose built [NHSScotland Workforce Policies website](#). The website scores high on the System Usability Scale (universal usability scoring system). This may particularly support older staff or staff with certain disabilities, advancing equality of opportunity through accessibility.
- advocates a person-centred approach in the application of all NHSScotland Workforce policies. This is demonstrated across the policy and supporting documents.

The Flexible Work Pattern Policy may **promote good relations** among and between different age groups and between disabled and non-disabled people. The policy minimises the perception of a hierarchy of need by recognising that employees have diverse needs and reasons for requesting a flexible work pattern. It moves away from the traditional focus on flexibility associated with family friendly and employees with children. Instead, the policy makes the request for flexible working options available to all employees.

The policy was considered to have no negative impact on promoting good relations for the other protected characteristics. The policy is open to all employees and managers are encouraged to take a person-centred approach.

Currently, there is no evidence of negative impacts on individuals with protected characteristics. Nevertheless, Scottish Government will continue to monitor and review this EQIA to ensure ongoing assessment of potential impacts on people with protected characteristics.

## 5. Recommendations and conclusion

NHSScotland's commitment to eliminating unlawful discrimination, harassment, victimisation and less favourable treatment is central to the [principles and values](#) that underpin these policies.

NHSScotland workforce policies should be applied fairly and consistently to any employee or worker regardless of:

- protected characteristics (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership or pregnancy and maternity)
- personal characteristics such as trans identities including non-binary, weight, social status
- offender status
- membership or non-membership of a trade union
- contractual status - part-time or fixed-term

The EQIA process did not identify indirect or direct discrimination through the policy intentions of the NHSScotland Flexible Work Pattern Policy.

It is anticipated that the policy will positively impact on eliminating unlawful discrimination, harassment and victimisation across all protected characteristics. In particular, in relation to age, disability, sex, maternity, gender reassignment, religion or belief and intersectionality. Additionally, it will advance equality of opportunity across all protected characteristics and promote good relations among and between different age groups and between disabled and non-disabled people. There is no evidence of negative impacts on people with protected characteristics.

The EQIA will be kept under review and updated based on new data, evidence or policy revision. Monitoring and review of this policy is an on-going process, involving iterative discussions with NHSScotland partnership groups. It will form part of the monitoring and review of Board's achievement of the Staff Governance Standard (2012) carried out through the Staff Governance Monitoring Framework. Further engagement with protected characteristic groups through staff networks and forums will form part of the ongoing review to ensure that the conclusions reached in the EQIA meet the needs of these groups.

Analytics from the website will allow collation of data related to use and accessibility of the policy, in addition to workforce data gathered through national datasets.



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