

Guidance on flexible working

2018



THE ROYAL
COLLEGE OF
MIDWIVES

Promoting • Supporting • Influencing



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Introduction

We have developed this publication to make the case for more flexible working opportunities for midwives and maternity support workers. Flexible working benefits midwives and maternity support workers by allowing them to create a better balance between their work and home life. It also helps NHS organisations to keep experienced and knowledgeable staff, so they can use their skills to provide high-quality and safe care to women and their families.

There is currently a shortage of 3,500 midwives in the UK, so it is extremely important that midwives and maternity support workers do not leave the profession. The shortage of midwives and the increasingly complex care that women need mean that maternity units are struggling and there are high levels of stress and exhaustion among midwives, maternity support workers and student midwives. This is causing midwives to leave the service. Maternity units are in a catch-22 situation. If maternity units can hold on to their midwives, staffing levels will improve, which in turn will lead to more midwives wanting to stay in the profession. Employers should consider the benefits of granting flexible working requests, particularly if the main benefit is that the service can keep that member of staff in the maternity unit.

Maternity services operate 24 hours a day, seven days a week, 365 days a year, so maternity units need to work in shifts. In theory, this should mean that units can offer a wide variety of different shift lengths and patterns, so granting flexible working requests should be fairly easy. Also, e-rostering (an electronic system for working out who works which shifts) and self-rostering (where a team decides among themselves who works which shifts) should make the wide variety of shift patterns and shift lengths easy to manage. However, we know that, in practice, maternity units are very inflexible in the variety of shift patterns and shift lengths they offer to staff. Several RCM surveys have shown that many units only offer 12-hour shifts and ask their staff to go on a rota system so their days and hours of work vary from week to week.

While some staff are happy to work this way and enjoy the variety of different shifts, other staff find it very disruptive to their work-life balance. It can make planning childcare very difficult, as many nurseries want children to attend on set days, so midwives and maternity support workers have to pay for alternative childcare or rely on family and friends if their shifts do not fit with those set days.

Research by the Institute of Safety and Health (IOSH) has shown that shift work can disrupt sleep patterns and is associated with a range of physiological and physical symptoms. Some evidence suggests that particular patterns of shift work and types of shift rotation have worse effects on health than others, while other research has considered whether shift work affects older workers more than younger workers.

Our evidence suggests that it is becoming more and more difficult for midwives and maternity support workers to get their flexible working requests granted, and the reason given for is normally poor staffing levels. However, this is a false economy if the result of refusing a request is that the midwife leaves the service altogether, worsening already poor staffing levels.

We believe that organisations should grant midwives' and maternity support workers' flexible working requests, and offer a variety of shift patterns and lengths, to encourage staff to stay in the service. Without holding on to existing midwives, we cannot hope to end staff shortages.

This publication gives information about the following.

- The experience of our members who have asked to work flexibly
- Flexible working in Agenda for Change
- The different types of flexible working
- The business case for flexible working

If you want to ask for flexible working and would like our help, please contact your local RCM Steward. Please call us on 0300 303 0444.

The experience of our members who have asked to work flexibly

This section sets out our evidence showing the experience of midwives and maternity support workers who have asked for flexible working.

Every year, we carry out a survey of heads of midwifery (HOMs). In the 2017 HOMs survey we asked questions about whether HOMs were able to support flexible working arrangements. The survey showed the following.

- 85% of HOMs said they found it difficult or very difficult to grant requests to reduce the number of night shifts.
- 88% of HOMs said they found it difficult or very difficult to grant requests to reduce the number of weekend shifts.
- 91% of HOMs said they found it difficult or very difficult to grant midwives' and maternity support workers' requests to fix shifts (so no rotation of shifts).

In 2016 we carried out a survey of midwives who had left midwifery or were considering leaving midwifery. This survey found the following.

- 76% of midwives who had left midwifery would be very likely or quite likely to return if there were opportunities to work flexibly.
- 70% of midwives considering leaving midwifery would be very likely or quite likely to stay if there were opportunities to work flexibly.

Also, midwives commented on the pressures of shift work and managing childcare, other caring responsibilities and health conditions. Many spoke about being denied requests to work flexibly. Here are some of the things that midwives told us.

"I retired early due to ill health. There is no equality in the NHS if you are disabled. If you are broken, as I was by over thirty years of midwifery you are thrown on the scrap heap... there is no compassion for the carers!"

Midwife, England, left midwifery six to 12 months ago

"I have worked at the same hospital for twenty-one years, I love being a midwife and am extremely passionate about helping women to make the transition to parenthood. I worked full time for the first fifteen years of my career, but now have three young children (one of whom has autism) and I would like to work part-time. Unfortunately, my employers no longer support midwives who have young children and families. I am devastated."

Midwife, England, intending to leave midwifery in the next six to 12 months

"I took retirement when I could as the pressure of work became too much and there was no support in reducing the workload for someone coming up to sixty."

Midwife, England, left midwifery 18 to 24 months ago

"Long shifts on a busy delivery suite is not healthy for either the midwife or the women they are caring for. I feel so disappointed having trained to do the job I had always longed to do but didn't feel I could give the women in my care 100%, which is what they should receive at all times. I would have been very happy to move into a different area of midwifery working less hours and shorter shifts but this was not possible due to being newly qualified."

Midwife, England, left midwifery 18 to 24 months ago

"Upon returning from maternity leave, my request to reduce my working hours from full time to part time was denied. As my husband works away, I am the sole childcare provider during the week so I would be unable to work the required three twelve-hour shifts a week to cover full time hours (I could have done the necessary part time hours at weekends). In addition, the shift start time of 7.30 and end time of 20.30 is outside of any childcare providers opening hours."

Midwife, England, left midwifery 18 to 24 months ago

"I have two small children under two. When I am due to return to work from maternity leave, I have been told I will need to work on labour ward (I am currently a community midwife) and the shift pattern is not conducive to childcare options available. I would be paying out more in childcare than I earn! My husband also work shifts as a police officer therefore out of hours childcare really hard to find. If I was returning to community midwifery with more regular hours it would have been much easier to manage."

Midwife, England, intending to leave midwifery in the next six to 12 months

"When I went on maternity leave, I was in a seconded role. I was made to interview for the post when my daughter was three months old. I did not get the job, and I suspected it was because I would have another baby and wanted to only work four days (as I was before going on maternity leave). When I resigned, my manager informed me that 'when I've had my next baby, I can concentrate on my career' - confirming my previous thoughts."

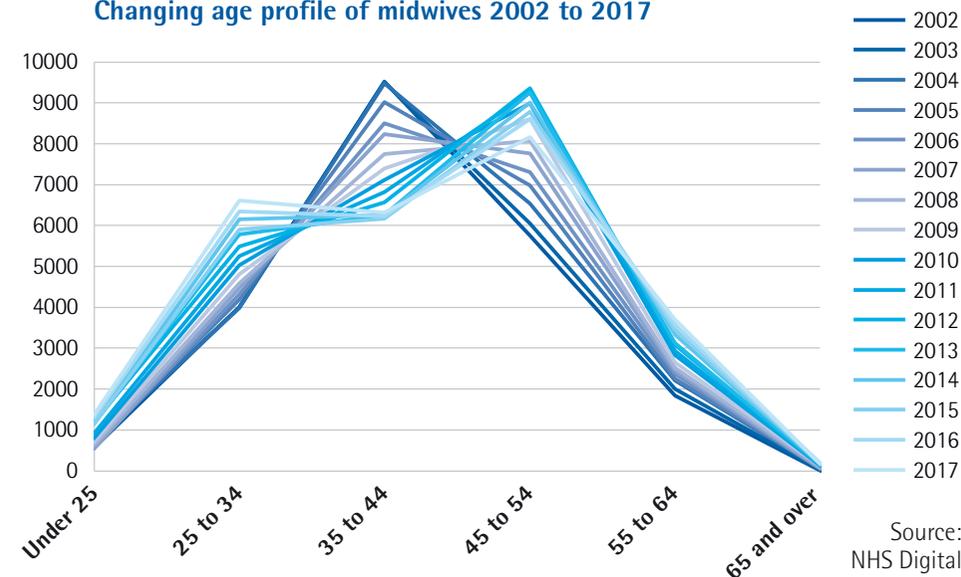
Midwife, England, left midwifery in the last six months

"Mothers returning from maternity leave are not supported as they should be by the NHS. For the short time period that flexibility is needed compared to a working lifetime, I feel it would be beneficial to allow flexibility to keep a valuable workforce engaged and motivated. Instead we are made to feel inferior if we choose our children over our career."

Midwife, England, left in the last six months

The graph below shows a big change over the last 15 years in the numbers of midwives aged between 35 and 44. We believe that the number of midwives aged 35 to 44 has been reducing due to fewer opportunities to work flexibly. It is particularly important that people in this age group have opportunities to work flexibly, as they are likely to have childcare responsibilities.

Changing age profile of midwives 2002 to 2017



The ability to balance work and family life is incredibly important. The Family and Childcare Trust's 2017 Childcare Survey found the following.

- Families spend up to 45% of their disposable income on childcare.
- Only one in eight areas has enough childcare available for employees who don't work typical working hours.
- On average, the price of 25 hours of nursery care for a child under two is £116 a week.

The age profile of midwives is crucial to understanding why flexible working requests are so important in maternity units. The graph above shows the age profile of midwives in England from 2002 to 2017. It shows that midwives in England are getting older, with 45.7% of midwives aged 45 or older, and 14.7% aged 55 or older. As the number of midwives aged 50 and over increases, more midwives may want to work more flexibly.

Flexible working in Agenda for Change

We are a member of the NHS Staff Council (the negotiating body of trade unions and employers). The NHS Staff Council want the Agenda for Change terms and conditions handbook to reflect best employment practice as well as current legislation.

This means that employers in the NHS should be able to show that their staff are able to work in ways that meet their needs (and the needs of the service) at different times in their careers, and that they have structures in place to support flexible working practices. It is important that the attitudes and behaviour of managers and staff, as individuals and teams, promote and support flexible working to make sure that career progression, for example, is not hindered by a person's choice to work flexibly.

Under the NHS Terms and Conditions of Service Handbook employers must do the following.

- **Develop local, flexible working arrangements** – these must be developed in partnership with local trade unions, including us. The policy must be made clear to all staff.
- **Consider flexible working requests from all staff in the workplace** – for example, members of staff with a disability or a long-term health condition, staff with a disability or staff with health conditions, staff who are returning from maternity or paternity leave, parental leave, adoption leave or shared parental leave, or members of staff who need temporary changes to their employment arrangements (for example, following a domestic crisis such as a bereavement).
- **Only introduce new working arrangements if the employer and employee agree** – whether the employer or the employee asks for the arrangements to change.
- **Flexible working arrangements should be made available to all employees** – all jobs should be considered for flexible working. If this is not possible, the employer must provide written, justifiable reasons for this and give a clear reason why this is not possible from a work perspective.
- **All staff on flexible working arrangements should have access to the Agenda for Change terms and conditions.**

- **Flexible working policies and procedures need to be transparent and fair** – applications and outcomes should be monitored and analysed, in partnership with trade union representatives (including us) to make sure that everyone has fair access to flexible working.

Employers have a duty to consider a request for flexible working arrangements within specified timescales, and can only refuse the request for one of the following business-related reasons.

- There would be extra costs to the organisation.
- There would be a reduction in the organisation's ability to meet demands for its services.
- It would not be possible to reorganise the work among existing staff, or to fill the hours.
- There would be a reduction in the quality of the service provided.
- There would be a reduction in performance.
- There is not enough demand on the service at the times the employee wants to work.
- There are planned structural changes.

However, employers need to remember that although they can refuse a flexible working request, legally this may still be indirect discrimination if they cannot show that the refusal was justified as a proportionate way of achieving a legitimate aim. It is good practice for employers to assume that any role in the organisation can be done flexibly as long as it does not have a negative effect on the service.

Employers should consider the benefits of granting the flexible working request, especially if the main benefit is that the service can keep that member of staff in the maternity unit.

Different types of flexible working

Many people mistakenly believe that 'flexible working' only means 'part-time'. In reality, there are many different types of flexible working.

- **Annualised hours** – this is a system under which an employee's contracted hours are worked out over a year.
- **Compressed hours** – this allows employees to work their total number of agreed hours over fewer working days (for example, 'compressing' a five-day working week into four days).
- **Flexitime** – this allows employees to choose, within agreed limits, when to begin and end work, so they can plan their working hours to fit in with other responsibilities such as childcare. There is sometimes a period of 'core hours' in which employees must be at work, and outside these core hours they can vary their start, finish and lunch times.
- **Flexible retirement** – there are ways in which employees can take 'flexi-retirement' rather than retiring full-time in one go. These options can include stepping down to a lower-banded role, drawing part of their pension benefits, or 'retire and return'. This is where a member of staff retires and starts to get their pension. They then return to work are paid for that work and continue to get their pension. The different options that may be available depend on which NHS pension scheme the employee is a member of (1995, 2008 or 2015).
- **Working from home** – an employee can work at home occasionally, temporarily or permanently.
- **Job-sharing** – this is where two people carry out the work that would normally be done by one person. The work is not split, but is shared.
- **Part-time working** – the number of hours worked each week is fewer than full-time hours (which is 37.5 hours a week in the NHS). There is no set pattern to part-time working. It may involve a later start and earlier finish time than a full-time position, working mornings or afternoons only, or fewer working days.
- **Phased return to work** – this is used after a period of extended leave such as maternity leave, a career break or a serious or prolonged illness. Normal hours of work are reduced temporarily (usually for up to six months), before they return to their normal hours of work.

- **Self-rostering shift-working** – employees are allowed to nominate the shifts they would like to work, leaving employers to organise shift patterns that match the preferences of individual staff to agreed staffing levels.
- **Staggered hours** – an employee's normal working hours are altered to suit their needs while still working full-time, for example allowing members of staff to have different lunch breaks and start and finish times.
- **Term-time working** – this allows an employee to stay on a permanent contract but also to take paid or unpaid leave during school holidays.
- **V-time working** – this is a voluntary arrangement which allows an employee to reduce the number of hours they work for an agreed period, with a guarantee that full-time employment will be available again at the end of this time.

Of course, flexible working is just one way that work can be redesigned to allow the NHS to be more inclusive as an employer and allow staff to continue with their employment with a good work-life balance. There are other measures that can be put in place, for example on-site childcare for parents, and breaks and facilities for staff who have returned to work and are breastfeeding.

In particular, the NHS Staff Council's Working Longer Group (which we were a member of) produced a great number of resources to help older workers. These are available at www.nhsemployers.org/your-workforce/need-to-know/working-longer-group. We were also involved in the Work Age Project which aimed to show that employers could take action in the workplace to employ and keep older workers. You can find out more about the project at www.ukwon.net/workage-blog.

The business case for flexible working

The business case for flexible working in the NHS couldn't be clearer. There is currently a shortage of 3,500 midwives in the UK, so it is vital that maternity units keep existing midwives in the service.

As heads of midwifery have told us, it is increasingly difficult for midwives and maternity support workers to have their flexible working requests granted. However, this is a false economy as the result of not granting a request may be that the midwife leaves the service altogether, and this would reduce staffing levels, which are already poor.

Further information

The following publications are available on our website at www.rcm.org.uk.

RCM (2017) **Evidence to the NHS Pay Review Body**

RCM (2016) **Caring for You: Survey Results**

RCM (2016) **Caring for You: Working in Partnership Guide**

RCM (2016) **Why Midwives Leave: Revisited**

RCM (2016) **Equality Essentials**

RCM (2016) **Pregnancy and Maternity Rights at Work**

NHS Staff Council (2017) **NHS Terms and Conditions of Service Handbook**

<https://www.nhsemployers.org/tchandbook>

Institute of Safety and Health (IOSH) (2015) **The effects of shift work on health**

[https://www.iosh.co.uk/Books-and-resources/The-effects-of-shift-work-on-health-\(2015\).aspx](https://www.iosh.co.uk/Books-and-resources/The-effects-of-shift-work-on-health-(2015).aspx)

