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| **DOCUMENT CONTROL** | | | |
| **Title:**  **Version:**  **Reference Number:** | | **Flexible Working Policy and Procedure**  **6**  **HR015** | |
| **Scope:** | | | |
| This policy applies to all employees of the Trust | | | |
| **Purpose**: | | | |
| The purpose of this document is to describe the process to be followed for requesting flexible working | | | |
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| Best Practice | | | |
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| The document has been circulated for consultation and comments have been taken into consideration and the document amended accordingly:   * HR, * Partnership Officers * Employees of the Trust | | | |
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| **Other Trust documentation to which this policy relates (and when appropriate should be read in conjunction with):** | | | |
| HR003 | Grievance Policy | | |
| HR009 | Job Share Policy | | |
| HR018 | Career Break Policy | | |
| HR033 | Retirement Policy | | |
| HR035 | Working Time Regulations Policy | | |
| HR055 | Supporting Employees with a Terminal Illness Policy | | |
| HR059 | Annual Leave Policy | | |

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| **Other external documentation/resources to which this policy relates:** |
| None |
| **CQC Regulations**  **This guideline supports the following CQC regulations:** |
| None |
| **NICE Products:**  **This policy has been produced to reflect recommendations published in the following NICE products** |
| None |

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**1. INTRODUCTION**

Flexible working describes a type of working arrangement which gives a degree of flexibility on how, where and when employees work. The flexibility may be in terms of working pattern or location.

Different working arrangements may help tailor employment practices to the needs of clinical and corporate services, as well as allowing managers to support employees who require flexibility to balance their wider life commitments with their contractual responsibilities.

Requests may be for temporary or permanent (‘open ended’) changes to working arrangements. In either case, it may be necessary to consider the duration in discussions about the practicability of the arrangement.

Any flexible working pattern agreed should be regularly reviewed (i.e. annually) in case circumstances change.

1. **PURPOSE**

The procedure explains how to apply for flexible working. The policy does not provide an automatic right to work flexibly, as there may be circumstances in which an employee’s request cannot be accommodated.

With effect from 30 June 2014 all employees have the statutory right to request flexible working after 26 weeks service with the same employer.

The Trust extends this right to all Trust employees with a minimum of 6 months continuous NHS service.

Staff who do not meet the statutory eligibility criteria but who still wish to work flexibly can request to do so but must recognise that the organization has no legal obligation to consider such a request.

In instances where there are a high number of applications in one department, and authorizing all of them would create difficulties for the provision of the service, priority will be given to those with the legal right.

Details of individuals who meet the criteria for the legal right to apply are listed under Section 17.

**3. ALTERNATE WORKING PATTERNS**

Not all of the options described below will be suitable to all service areas and work environments. They are examples to illustrate the types of working arrangements which may be supported, provided that their introduction would not have a detrimental impact on the service, service users or other employees, or risk the safety and security of the member of staff.

**4. JOB SHARING**

A way of working where two employees voluntarily share the responsibilities of one job, dividing pay, holidays and other benefits between them according to the number of hours worked.

Job sharing arrangements must comply with the approved policy on job sharing (see the Job Share Policy for further details).

**5. CAREER BREAK**

A career break is a formal agreement made between the employee and the Trust for an extended period of unpaid leave from work (for a minimum of 3 months and a maximum of 5 years) and involves an understanding between both parties that the employee will return to the Trust at the end of the agreed break and keep up to date in the intervening period (see the Career Break Policy for further details).

**6. TEAM BASED SELF-ROSTERING**

An approach to scheduling work which gives staff more control over their working week. Management determine the number of staff required per shift with the necessary skill mix and thereafter team members will work amongst themselves to agree cover for shifts in line with the parameters set i.e. skill-mix and number of staff required. The roster will be compiled on this basis. Self-rostering depends on a willingness of all colleagues to co-operate and apply fairness across the board:

* Working their share of the entire range of shifts e.g. nights and weekend shifts as per working conditions/contract of employment.
* Ensuring all contractual hours are worked within the roster period and ensuring all hours worked are complaint with working time regulations.

**7. TERM TIME WORKING**

Allows employees to remain on a permanent contract and gives them the right to unpaid leave during the school holidays. Payment for hours worked is averaged out over a 12 month period.

**8. ‘FLEXI TIME’ OR ‘HOURS BANKING’**

Covers a number of systems; formal flexi time systems mean staff can, in appropriate circumstances, exercise some choice as to their start and finish times and length of lunch break, providing that:

* The requirements of the job are always given first consideration.
* They are present at work during certain specific periods.
* They work the contracted hours prescribed in their conditions of service over the determined settlement period.

Staff can also build up a debit or credit of hours worked. Also covers ‘lieu-time’ / TOIL systems where staff may work extra hours to cover a short-term increase in workload and ‘bank’ those hours to take back later. Staff should refer to local agreements and specific service requirements i.e. the maximum of hours that can be built up within a single roster period, the maximum time in which TOIL can be taken, and that TOIL taken should be reflective of the shift in which it is accrued e.g. additional hours worked on a weekday shift should be taken back on a weekday and not a weekend.

**9. ANNUALISED HOURS**

Employees are able to request a working pattern where the number of hours each week may vary throughout the year dependent on their personal circumstances. However, they work an agreed amount of hours each year and receive equal salary payments over 12 months.

**10. PART TIME WORKING**

The employee works fewer than the normal full time hours per week. Some examples are mornings, afternoons or school hours only or work only on certain days of the week.

**11. HOMEWORKING**

This could either be working at home for part of the working time or working from home entirely, i.e. home based. Staff should refer to local arrangements and specific service requirements. Any agreements made in respect of homeworking must be appropriately risk assessed and reference Health and Safety and ICT policies.

**12. FLEXIBLE RETIREMENT**

There are a range of alternatives available for staff as they approach retirement age. The alternatives broadly are:

* To wind down into part time work
* To step down into a less demanding, lower paid role
* To retire and start receiving full pension, but carry on with part-time or full-time work

Staff should refer to local arrangements and specific service requirements.

**13. COMPRESSED WORKING WEEK**

This allows an employee to remain on full time hours but work differently than the standard five days per week (i.e. four long days or a nine day fortnight). The introduction of compressed hours working will be a management decision which will be reached based on the needs of the service.

**14. TEMPORARY CHANGES TO WORKING PATTERNS AND SHORT TERM ADJUSTMENTS**

For example, a temporary reduction in hours, or a change in start/finish times. This may be the most suitable arrangement to accommodate a short-term change in an employee’s circumstances. The duration of the change would be agreed between manager and employee at the end of the period, the previous working arrangement is resumed. An example of this would be three months to one year.

For discreet, short term adjustments e.g. weeks or months, which can be managed locally between the employee and the line manager, the formal flexible working application form does not need to be completed.

**15. ANNUAL LEAVE PURCHASE**

This enables an employee to apply to purchase up to two additional week’s annual leave (pro-rata) within an annual leave year. If this request is authorised, the manager must notify payroll via the **Buy Additional Annual Leave Form,** which is accessible from the Intranet, of the relevant deductions requested. Following authorisation of this purchase request, the additional annual leave days must be added to the ESR Entitlement Balance and taken as per the normal annual leave authorisation process (See guidance on purchasing additional annual leave for further details).

**16. SUPPORTING EMPLOYEES WITH TERMINAL ILLNESS**

Employees who are diagnosed with a terminal illness and who wish to remain in work may need to explore the option of working flexibly in order to make remaining in work a reality (see the Policy for Supporting Employees with a Terminal Illness for further information).

17. **LEAVE FOR ARMED FORCES RESERVISTS, SPOUSES/PARTNERS**

Legislation is in place to support employers and reservists financially during a period of mobilisation, this includes:-

* Salary costs paid for by Military
* Pension contributions scheme paid for by the Military if withdrawn by the employer and the reservist wishes to remain in the scheme
* Additional salary costs to cover a temporary replacement, should the costs exceed the reservists employee’s salary
* Handover costs when the employee returns to work for the Trust
* Essential re-training costs for the reservist employee upon return to work following mobilisation.
* Costs for replacement of specialist clothing for deployed Reservists.

Employees who are spouses/partners of Armed Forces personnel, should be given flexibility in the granting of leave, this includes either before, during or after their deployment.

As part of the armed forces covenant and as part of PCFT pledge to the MoD Defence Employer recognition scheme (of which we are currently Silver, striving for Gold in 2022), the Trust has pledged to provide paid leave for such absences.  The Armed forces covenant will become law in 2022.

Should further information, advice and support be needed on this aspect of the Policy please contact your HRBP for further advice or the Military Vets Service Manager.

Please see Appendix 5 for information on the financial support available.

**18. ACCESS TO FLEXIBLE WORKING ARRANGEMENTS**

Employees are eligible to make one application for flexible working per year. Purchasing additional leave does not form part of a formal flexible working application. Details of individuals who meet the criteria for the legal right to apply are as follows:

**The individual must:**

* Be an employee
* Have 26 weeks continuous NHS service at the date the application is made (bank service is not included as continuous NHS Service)
* Not be an agency worker
* Not have made another application to work flexibly in the past 12 months (in exceptional circumstances i.e. Covid 19 the individual may make one additional / revised application within the year.

An accepted application will initially be subject to a trial period of up to 3 months. At the end of the trial period, if both parties are happy that the arrangement is working, then a change to the employee’s own terms and conditions of employment will occur.

It is therefore important that before making an application, the employee gives careful consideration to the following:

* Any effects it will have upon the Trust’s deliver of service, and how these may be accommodated
* Which working pattern will help them best balance their work/life responsibilities
* All the financial implications it might have e.g. on salary and pension

Once a permanent change to terms and conditions has been made, there is no automatic right to revert to the previous arrangement.

Employees must also consider that their request should not propose a working pattern that would be in breach of the Trust’s Working Time Regulations policy (see the Trust’s Working Time Regulations Policy for further information).

**19. GROUNDS FOR REFUSAL**

In some cases it may not be possible to meet the request in full and there will be a need for a compromise between what the employee requests and what is required to run the service. In a small number of cases, a refusal may be the only option.

Possible grounds for refusal could include:

* Burden of additional costs
* Detrimental effect on ability to provide service
* Inability to reorganise work amongst existing staff
* Inability or difficulty to recruit additional staff
* Detrimental impact on quality of service
* Detrimental impact on performance
* Insufficient work during the period the employee proposes to work
* Planned structural changes

Managers are encouraged to seek HR advice in such circumstances.

**20. PROCEDURE FOR REQUESTING FLEXIBLE WORKING**

The employee must make an application in writing using the form ‘Appendix One’. Any evidence in support of the application may also be submitted. It may be useful for employees to have an informal discussion with their line manager in order to put the proposal to them before making a formal application as employees are only permitted to make one application per year (although in exceptional circumstances a second application may be considered).

The line manager should arrange to meet with the employee within 28 days of receipt of the application. This meeting should provide the manager and the employee with the opportunity to explore the desired working arrangements in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative working patterns should there be problems in accommodating the desired working arrangements outlined in the employee’s application.

The employee may be accompanied at the meeting by a workplace colleague or Trade Union Representative if they so request.

If the timescales outlined in the application process cannot be met the employee and employer can agree to extend the deadline if appropriate; this must be confirmed in writing.

Following the meeting the manager may wish to consult with their senior management team and the Human Resources Department for further advice.

Within 14 days of date of the meeting the line manager should write to the member of staff to either:

* Agree to a new work pattern, start date and date of review
* Provide clear business grounds as to why the application cannot be accepted, using the grounds for refusal listed under section 17. The letter should also explain the reasons why the grounds apply in the circumstances
* Explain that further action/advice is required before a final decision can be made

If the request is accepted the manager should agree a date for the commencement of the 3 month trial period. The manager should also action the change by completing the appropriate ESR form (ESR 3).

At the end of the trial period, the manager and the employee should review the working arrangements and any impact upon the service. If both parties are satisfied, a permanent change to the employee’s terms and conditions will be agreed and actioned by the manager. This may involve requesting an amendment to the employee’s contract. Copies of all documentation should be retained on the individual’s personal file.

It may be appropriate in certain circumstances for an agreement to be made for changes to take place following the trial period, after which a further review will take place and a firm decision reached. Where this is deemed appropriate, the length of the trial period will be agreed between both parties.

Where temporary changes have been agreed, timescales and review periods must be stated at the time the flexible working arrangements are implemented.

Arrangements should be reviewed regularly (i.e. annually) to ensure that they are working satisfactorily, and that any issues are raised and resolved as soon as possible.

Any changes made to the agreed arrangements should be subject to normal consultation between the manager and employee and implemented from an agreed date, with the revised agreement confirmed in writing to the employee.

If the employee is dissatisfied with the decision that is reached they have the right to appeal. This should be done, in writing and within 14 days of receipt of the letter confirming the decision, to the Head of Human Resources.

A meeting will be arranged within 14 days to discuss the appeal. The meeting will be chaired by a manager not directly involved with the matter and will include a HR representative. The outcome of this meeting will be communicated in writing within 14 days of the date of the meeting.

There is no further right of appeal at this stage. However if an employee feels that the Flexible Working Policy has not been properly adhered to, they have the right to invoke the Grievance Procedure.

**21. EQUALITY IMPACT ANALYSIS**

As part of its development, this document was analysed to consider / challenge and address any detrimental impact the policy may have on individuals and or groups protected by the Equality Act 2010. This analysis has been undertaken and recorded using the Trust’s analysis tool, and appropriate measures will be taken to remove barriers and advance equality of opportunity in the delivery of this policy / procedure

**22. FREEDOM OF INFORMATION EXEMPTION ASSESSMENT**

Under the Freedom of Information Act (2000) the Trust is obliged to publish our policies on the Trust’s website, unless an exemption from disclosure applies. As part of its development, this policy was assessed to establish if it was suitable for publication under this legislation. The assessment aims to establish if disclosure of the policy could cause prejudice or harm to the Trust, or its staff, patients, or partners. This assessment has been undertaken using the Trust’s Freedom of Information Exemption Guide, and will be reviewed upon each policy review.

**23. INFORMATION GOVERNANCE ASSESSMENT**

This Policy has been analysed to ensure it is compliant with relevant information law and standards as in place at the time of approval, and are consistent with the Trust’s interpretation and implementation of information governance components such as data protection, confidentiality, consent, information risk, and records management.

Compliance will be reviewed against any changes to legislation / standards or at the next review of this document.

**24. SAFEGUARDING**

All staff have a responsibility to promote the welfare of any child, young person or vulnerable adult they come into come into contact with and in cases where there are safeguarding concerns, to act upon them and protect the individual from harm.

All staff should refer any safeguarding issues to their manager and escalate accordingly in line with the Trust Safeguarding Families Policy and Local Safeguarding Children/Adult Board processes.

**25. ANTI-FRAUD, BRIBERY AND CORRUPTION**

The Trust is committed to reducing the level of fraud, bribery and corruption within the NHS and has adopted a Local Anti-Fraud, Bribery and Corruption Policy. Individuals should refer and adhere to this policy.

Concerns about fraud, bribery or corruption should be reported to the Trust’s nominated Anti-Fraud Specialist using the contact details contained within the Local Anti-Fraud, Bribery and Corruption Policy.  These details can also be found on the Trust’s Counter Fraud intranet page.

Alternatively concerns can be reported via the NHS Fraud and Corruption Reporting line on 0800 028 4060 or using the online report tool, [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk). All contacts are dealt with by experienced trained staff and anyone who wishes to remain anonymous may do so

**26. MONITORING**

The effective application of this policy, including adherence to any standards identified within will be subject to monitoring using an appropriate methodology and design, such as clinical audit.

Monitoring will take place on a biannual basis and will be reportable to the Quality Group via the Clinical Effectiveness and Quality Improvement Team.

**27. REVIEW**

This policy will be reviewed three-yearly unless there is a need to do so prior to this; e.g. change in national guidance.

**28. REFERENCES**

Equality Act 2010

Freedom of Information Act (2000)

**Appendix One**

**Application for Flexible Working**

|  |
| --- |
| **1.Personal Details:**  **Name:** Click here to enter text.  **Job Title:** Click here to enter text.  **Department:** Click here to enter text.  **Manager:** Click here to enter text.  **Date employment with the Trust commenced:** Click here to enter text. |

**Statement:**

**I would like to apply to work a flexible working pattern that is different to my current working pattern. I do  / do not \* have a legal right to request flexible working.**

*\*Please tick as appropriate. Eligibility criteria for the legal right to request flexible working can be found under section 17 of the Flexible Working Policy. Please note that if you are making this application under your legal right to apply you must sign the supplementary declaration at the end of this form.*

|  |
| --- |
| 1. **Describe your current working pattern (days/hours/times worked):**   Click here to enter text. |

|  |
| --- |
| 1. **Describe the working pattern you would like to work in the future:**   *Continue on a separate sheet if necessary.*  Click here to enter text.  Do you want this new working pattern to be ***permanent  / temporary***\*?  If temporary, for how long? Click here to enter text.  ­­ |

|  |
| --- |
| 1. **Explain the reasons for requesting this new working pattern.**   Click here to enter text. |

|  |
| --- |
| 1. **Impact of the new working pattern.**   *Describe how you will be able to continue to perform all current duties within the proposed working pattern:*  Click here to enter text. |

|  |
| --- |
| 1. **Accommodating the new working pattern.**   *Describe what duties will be affected if any and how the duties may be reallocated.*  Click here to enter text. |

|  |
| --- |
| 1. **To help your manager consider your application and in finding alternative ways of providing a service, outline how your request will affect the following, if applicable:**   **Direct Patient Care:** Click here to enter text.  **Customer/client Care:** Click here to enter text.  **Contact with Manager/Supervisor:** Click here to enter text. |

|  |
| --- |
| 1. **If the role involved management of staff, how will the application affect the delivery of:**   **Supervision:** Click here to enter text.  **Performance appraisal / IPDR:** Click here to enter text.  **Training:** Click here to enter text.  **Communication:** Click here to enter text.  **Staff Support:** Click here to enter text. |

|  |
| --- |
| 1. **I would like this working pattern to commence from:** Click here to enter a date. |

1. **Supplementary Declaration**

**I am applying for a flexible working pattern under my right provided in law. I confirm that I meet each of the eligibility criteria as follows:**

* I am an employee of the Trust
* I have 26 weeks continuous service at the date the application
* I am not an agency worker
* I have not made another application to work flexibly under the right in the past 12 months (or I have agreed that a second application will be considered due to exceptional circumstances)

**Signature:** Click here to enter text. **Date:** Click here to enter a date.

1. **Flexible Working Application Equality Monitoring (Employee’s use only)**

Your responses to the questions below will help us to further analyse and understand the experiences of employees. This form is anonymous so you cannot be identified*.* Please ensure that you detach this information from the rest of the flexible working application.

**Gender**

Male  Female  Transsexual  Do not wish to state

**Age**

18 – 30  31 – 49  50 – 64  65+  Do not wish to state

**Disability**

The Disability Discrimination Act says you are disabled if you have a mental or physical impairment, which has a substantial and long-term adverse effect on your ability to carry out normal day-to-day activities. The impairment must have lasted or be likely to last for at least 12 months

Do you consider yourself to be disabled?

Yes  No  Do not wish to state

**Ethnicity**

I would describe my ethnic origin as: (please tick the appropriate box)

**Asian or Asian British Black or Black British**

Bangladeshi  African

Indian  Caribbean

Pakistani  Other

Other

**White Mixed**

British  White and Black Caribbean

Irish  White and Black African

Other  White and Asian

Other

**Other Ethnic Groups**

Chinese

Other  I do not wish to state

**Application Outcome**

Was a flexible working arrangement agreed?

Yes  No

*Please return this form to: Human Resources Department, Pennine Care NHS Trust Headquarters, 225 Old Street, Ashton-under-Lyne, OL6 7SR.*

|  |  |  |
| --- | --- | --- |
| **Appendix Two**  **Flexible Working Request Agreed**  <date> |  |  |
| **Private and Confidential**  Name  Address |
|  |

Dear

**Flexible Working Request**

Following the meeting held on [date] to discuss your flexible working application which was received on [date], I am pleased to confirm that your request has been granted.

I can confirm that, from [date], your hours of work will be [detail the change i.e. days / hours / times of work]. This represents a working week of [number] hours.

Please note that in line with the Trust’s Flexible Working Policy and Procedure, this will be a change to your terms and conditions of employment and there is no automatic right to change back to your previous working pattern.

The Trust also reserves the right to review all flexible working patterns regularly over time in light of any changes to operational requirements. You will be consulted if there are any proposed changes.

I do hope that the new working pattern that has been agreed for you will be of benefit both to yourself and to the service.

Yours sincerely

**Name**

Job title

E:

cc. HR

**Appendix Three**

**Flexible Working Request Declined**

|  |  |  |
| --- | --- | --- |
| <date> |  |  |
| **Private and Confidential**  Name  Address |
|  |

Dear

**Flexible Working Request**

I refer to our meeting held on [date] where we discussed your flexible working request which was received on [date].

You requested [detail requested change] to your working pattern / place of work. I have considered your flexible working application thoroughly against the statutory grounds outlined below (in line with the Employment Rights Act 1996) and unfortunately I feel that to grant your request would:

[*detail reason that the service is unable to accommodate the request – managers are advised to seek HR*]

* + - * impose an unreasonable burden of additional costs because [explain costs and why they would be incurred]; and/or
      * have a detrimental effect on our ability to meet our service demands [explain why, e.g. because we would be unable to cover the service between 9.00 and 17.00]; and/or
      * create unacceptable difficulties for us as we have been unable to make arrangements to reallocate the work amongst other staff [explain attempts considered]; and/or
      * create unacceptable difficulties for us as we [would be/have been] unable to recruit additional staff [explain why]; and/or
      * have a detrimental impact on operational performance and the quality of service delivered [explain why]; and/or
      * create unacceptable difficulties for the Service due to an insufficiency of work during the periods you proposed to work [explain why]; and /or
      * be inappropriate due to planned structural changes [explain changes].

You have the right to appeal against the decision to refuse your request for flexible working. If you wish to appeal, you should do so in writing to the Head of Workforce at Trust Headquarters, 225 Old Street, Ashton under Lyne, OL6 7SR within 14 calendar days of receipt of this letter. Your appeal must set out the grounds on which you wish to appeal against the decision as set out above.

Yours sincerely

**Name**

Job title

E:

cc. HR

|  |  |  |
| --- | --- | --- |
| **Appendix Four**  **Trial Period**  <date> |  |  |
| **Private and Confidential**  Name  Address |
|  |

Dear

**Flexible Working Request – trial period**

Following our meeting on [date] to discuss your request for flexible working, I can confirm that I have agreed to the changes detailed below on a temporary trial basis.

The [x number of weeks] trial period will begin on [date] and end on [date]. I will arrange a meeting with you shortly before the end of the trial period to discuss whether or not it is possible to make the changes permanent.

I can confirm that your temporary working days and hours are [list days and hours or if the employee will be allowed to work at home].

Although I will endeavour to grant your request for flexible working on an ongoing basis if at all possible, it is first necessary to consider the impact of your request during the trial period. An integral part of this consideration is to ensure that any flexible working arrangements agreed meet the business and operational needs of the Service and do not impact negatively on colleagues or service delivery.

It is important to understand that the above working pattern is, at this stage, agreed as a temporary variation to the terms and conditions of your employment, and the Trust reserves the right at the end of the trial period, to revert to your previous contractual working pattern.

The Trust also reserves the right to review all flexible working patterns regularly over time in light of any changes to operational requirements; you will be consulted if there are any proposed changes.

Yours sincerely

**Name**

Job title

E:

cc. HR

**Appendix 5**

**Financial Support available for Reservists**

Legislation is in place to support employers, reservists financially during a period of mobilisation, this includes:-

* Salary costs paid for by Military
* Pension contribution scheme paid for by the Military if withdrawn by the employer and the reservist wishes to remain in the scheme
* Additional salary costs to cover a temporary replacement, should the costs exceed the reservists employee’s salary (up to a maximum of £110 a day)
* Up to £2,000 of training costs for a replacement during a reservists mobilisation
* 5 days of handover costs when the employee returns to work for the Trust
* Essential re-training costs for the reservist employee upon return to work following mobilisation
* 75% of costs for replacement of specialist clothing for deployed Reservists up to the value of £300