

## FLEXIBLE WORKING GUIDANCE

### 1. The Principles

- 1.1 Any eligible employee can apply to work flexibly for any reason.
- 1.2 In accordance with legislation the Trust must seriously consider any application made for flexible working by following a fair procedure. The law however does not provide an automatic right for staff to change their working arrangements. It is therefore important for employees to understand that some types of flexible arrangements may not be suitable within some posts or departments and hence, each request will be considered on an individual basis and in light of service needs.
- 1.3 Requests must be considered objectively and an employer can only refuse a request if there are business reasons for doing so. These reasons are set out in Section 7.1.2 of this document.
- 1.4 Staff are encouraged to have an informal discussion with their manager about any flexible working requirements prior to making a formal request. In some cases, it may not be necessary to submit a formal request, however in accordance with section 5.1.2 any new working pattern agreed should still be documented.
- 1.5 In managing flexible working requirements, the following principles will always apply:
  - **Openness and Transparency** - employee's options and how decisions are reached will be open and shared with staff at all times.
  - **Fairness and Equity** - employees will be treated fairly and equitably, as individuals, recognising that we are all unique.
  - **Consistency of Approach** - the options detailed in the policy will be applied consistently to all staff.
  - **Confidentiality** - information given to the Line Manager and Human Resources regarding the employee's circumstances will be treated in complete confidence.

### 2. Qualifying Conditions

- 2.1 To be eligible to make a statutory flexible working request the employee must fulfil the following conditions:
  - They must be employed by the University Hospitals Sussex NHS Foundation Trust (Agency or bank workers do not qualify)

- They must have worked continuously with the NHS for at least 26 weeks on the date they make the request.
- They must not have made any other statutory flexible request during the last 12 months.

2.2 All staff requesting a change of their contracted hours, for whatever reason, need to follow this procedure. In exceptional circumstances only, Managers may grant discretion for individuals to make additional requests to change their contracted hours/working patterns within the same 12 month period.

### **3. Notification Requirements**

3.1 The employee must inform their manager of their intention to request flexible working at the earliest opportunity, giving a minimum of at least three months' notice wherever possible.

### **4. Types of Flexible Working**

4.1 The Trust will consider, wherever applicable, all kinds of working arrangements to enable staff to achieve a healthy work-life balance. Given below are a range of examples of flexible working. This list is not exhaustive.

- Part-Time Working
- Fixed Shifts
- Term-Time Working
- Job Sharing
- Compressed Hours
- Annualised Hours
- Home Working

#### **4.2 Part Time Working**

4.2.1 Part-time working, where a person works to a pattern and number of hours by mutual agreement. 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, fewer working days in the week or any other arrangement of working time whereby the employee is contracted to work less than normal basic full-time hours, i.e. 37.5 hours per week.

4.2.2 Employees will be considered a part-time employee when they are contracted to work for anything less than full time hours. Part-time employees will be entitled to a pro-rata of annual leave and bank holidays, depending upon the number of contracted hours and will be paid accordingly.

### **4.3 Fixed Shifts**

- 4.3.1 Fixed shifts are where individuals work a predetermined working pattern although still maintain their full-time hours i.e. working permanent night shifts, day shifts or set days.
- 4.3.2 It may not be possible to accommodate this type of working pattern in some areas, particularly clinical areas, where exposure to different shifts are essential in order to maintain/update an employee's skills. It may however be possible to agree for staff to work a different shift on occasions so that these skills can be maintained.

### **4.4 Term-Time Working**

- 4.4.1 This is an arrangement whereby the employee remains on a permanent contract (full time or part time) and works only during the term time. Hence, the employee can take paid/unpaid leave during school holidays enabling them to provide care for their dependent children during the school holidays and inset days.
- 4.4.2 Employees will be entitled to a pro-rata of annual leave and bank holidays, depending on the number of contracted hours. This will be added to the annual hours that they will work to make up the annual salary which will be paid in equal monthly instalments regardless of the hours worked during any given month.
- 4.4.3 As a term-time working arrangement is designed to assist employees with school-age children, its appropriateness will be reviewed annually. It is expected that, once term-time working is no longer required employees will agree to a revised working arrangement with the organisation.
- 4.4.4 Term-time working is usually worked on the basis of 39 weeks in work and 13 weeks not in work (though this can vary depending on the school and whether or not inset days are included). The 13 weeks are calculated as follows:
  - Easter – 2 weeks
  - Summer – 6 weeks
  - Christmas – 2 weeks
  - Half terms – 3 weeks (May, October and February).

### **4.5 Job Sharing**

- 4.5.1 Job sharing, where two or more employees share the responsibilities of one or more full-time job(s), dividing the hours, duties and pay between them. This is a form of part time working where the employee shares the responsibility of one or more full time job(s) with another/other individuals, dividing the hours, duties, benefits and pay between themselves depending on the number of hours they and the job share partner(s) are contracted to do.

- 4.5.2 Job sharing includes provision for overlap times between job share partners in order to facilitate communication and maintain continuity in the work.
- 4.5.3 Job sharing should not be confused with “Job splitting” where one full time post is split into two separate part time posts with little or no shared responsibility.

#### **4.6 Voluntary Reduced Hours (V-working)**

- 4.6.1 Voluntary reduced working time is where employees work reduced hours by agreement at a reduced salary. The member of staff may be able to temporarily reduce their contracted hours, usually by between 5% and 30%. If the reduction is agreed then the member of staff's salary will also reduce pro-rata to the reduction in hours. The temporary reduction will continue for a specified period, usually 6 months to a year. The employee can return to their previously contracted hours at the end of the specified period or agree to a new permanent working pattern with their manager. V-working is facilitated either by the employee reducing their working week or by taking a block of time off.

#### **4.7 Compressed Hours**

- 4.7.1 The employee will compress their weekly hours into fewer days, e.g. 12 hour shifts are worked over three days rather than shorter shifts over five days. Such arrangements must comply with the Working Time Directive Regulations and include the required daily breaks.

#### **4.8 Annualised Hours**

- 4.8.1 Annualised hours contracts, where an employee works a set number of hours over the whole year, but with a certain degree of flexibility about when those hours are worked. Normally, a period of regular hours or shifts forms the core of the arrangement, with the remaining time left unallocated and used on an 'as needed' basis i.e:
- Fixed hours where the member of staff works for a predefined period of time e.g. every Saturday for 52 weeks per year for 8 hours.
  - Flexible hours where the employee and the manager agree to work as the business need arises.
- 4.8.2 For payroll purposes employees working annualised hours will be paid in 12 equal monthly payments, based on the average hours worked per week should the total number of hours to be worked over the year be divided equally across the 52.143 weeks of the year.
- 4.8.3 Employees will be entitled to a pro-rata of annual leave and bank holidays, depending on the number of contracted hours. This will be added to the annual hours that they will

work to make up the annual salary which will be paid in equal monthly instalments regardless of the hours worked during any given month.

#### **4.9 Home Working**

- 4.9.1 Home working refers to time spent by an employee working at home for part of their contracted hours rather than on Trust premises. Further information and the procedure for applying for home working can be found in the separate guide “Home Working Guidance”.

### **5. Procedure for Applying for Flexible Working**

#### **5.1 Application**

- 5.1.1 If the employee meets the qualifying criteria to make a flexible working request, they are required to follow the set procedure given below in order for requests to be given due consideration.
- 5.1.2 Wherever possible, employees are encouraged to have an informal discussion with their line manager prior to making a formal request. In such circumstances a meeting should be held between the employee and manager to hold initial discussions to ensure the proposal is the best solution for both the service and the employee. If an informal request can be granted then Appendix 3 (and a Staff Change Request Form if required) should be completed by the manager and copies given to the employee. A further copy should be forwarded to the Human Resources Recruitment Team for recording purposes. If at the informal stage further discussion is warranted then a formal application should be made.
- 5.1.3 Formal requests must be made in writing to the manager using the application form contained in Appendix 2.
- 5.1.4 The application must clearly state the flexible working pattern applied for and the date the proposed change would become effective. However, a minimum of three months’ notice must be given wherever possible.
- 5.1.5 The application must clearly provide the details of the reasons for the request i.e. carer, childcare.
- 5.1.6 The application should clearly state if a request is being made in relation to the Equality Act 2010, for example reasonable adjustments for a disability.
- 5.1.7 The application form should clearly state what impact the proposed working pattern may have on the service and colleagues as well as possible solutions to overcoming any potential negative outcomes.

- 5.1.8 When more than one request is received the manager will consider the flexible working requests in the order they are received.
- 5.1.9 The proposed flexible arrangements will not commence until sanctioned by the manager.
- 5.1.10 A formal meeting will be held between the manager and employee to discuss the application in depth and consider how it can be accommodated. This meeting must be held as soon as practicably possible; however, it must be within 28 calendar days upon receipt of the completed application form. During the meeting the employee is entitled to be accompanied by a recognised Trade Union/Staff Side representative or work colleague.
- 5.1.11 The manager should ensure that the flexible working arrangements meet the needs of the service and are operationally viable and reasonable.
- 5.1.12 The employee will be advised of the decision as soon as practicably possible, however, it must be within 14 calendar days from the date of the meeting. If a request cannot be accommodated, the reasons for this should be put in writing within this timescale (see section 7 for grounds for refusal).
- 5.1.13 The law requires that all requests, including any appeals, must be considered and decided on within a period of three months from first receipt, unless the manager agrees to extend this period with the employee.

## **6. Approving a Request**

- 6.1 The manager should complete Appendix 3, and a Staff Change Request Form if applicable, and provide a copy to the employee before forwarding them to the Human Resources Recruitment Team and Payroll. The employee will also receive a letter from Human Resources if they are changing their working pattern to term-time only or annualised hours. It is important that copies of all **applications** and **outcomes** for flexible working are sent to the Human Resources Team for recording and monitoring of equality.
- 6.2 In some circumstances it may not be possible to grant a request in its entirety. Any modifications to a request should be discussed and clearly documented on the flexible working application acceptance form.

## **7. Grounds for Refusal**

- 7.1 All requests should be consider carefully looking at the benefits of the requested changes in working conditions for the employee and the service and weighing these against any adverse business impact of implementing the changes. The Trust is under no statutory obligation to grant a request to work flexibly if it cannot be accommodated by the service on any of the grounds listed in 7.2.

7.2 The application for flexible working should only be refused if there is a clear business reason which may fall into one or more of the following categories:

- The burden of any additional costs is unacceptable to the organisation
- An inability to reorganise work amongst existing staff
- Inability to recruit additional staff
- A detrimental impact on quality
- A detrimental impact on performance
- The change would have a detrimental effect on the ability to meet patient and/ or customer demand
- Insufficiency of work for the proposed period/s of work
- Planned structural change/s to the organisation

7.3 Requests must not be rejected for any other reason and advice should be sought from the Divisional Human Resources Team before refusing a request.

## **8. Appeal Process**

8.1 The employee can exercise their right to appeal within 14 calendar days of notification of the decision by writing to a Senior Manager of the department, with a copy to the Divisional Human Resources Team contact.

8.2 The Senior Manager will arrange an appeal meeting within 14 calendar days of the receipt of the written appeal.

8.3 The employee has the right to be accompanied during the appeal meeting by a recognised Trade Union/Staff Side representative or work colleague. A member of the Divisional Human Resources Team will also be present at the meeting.

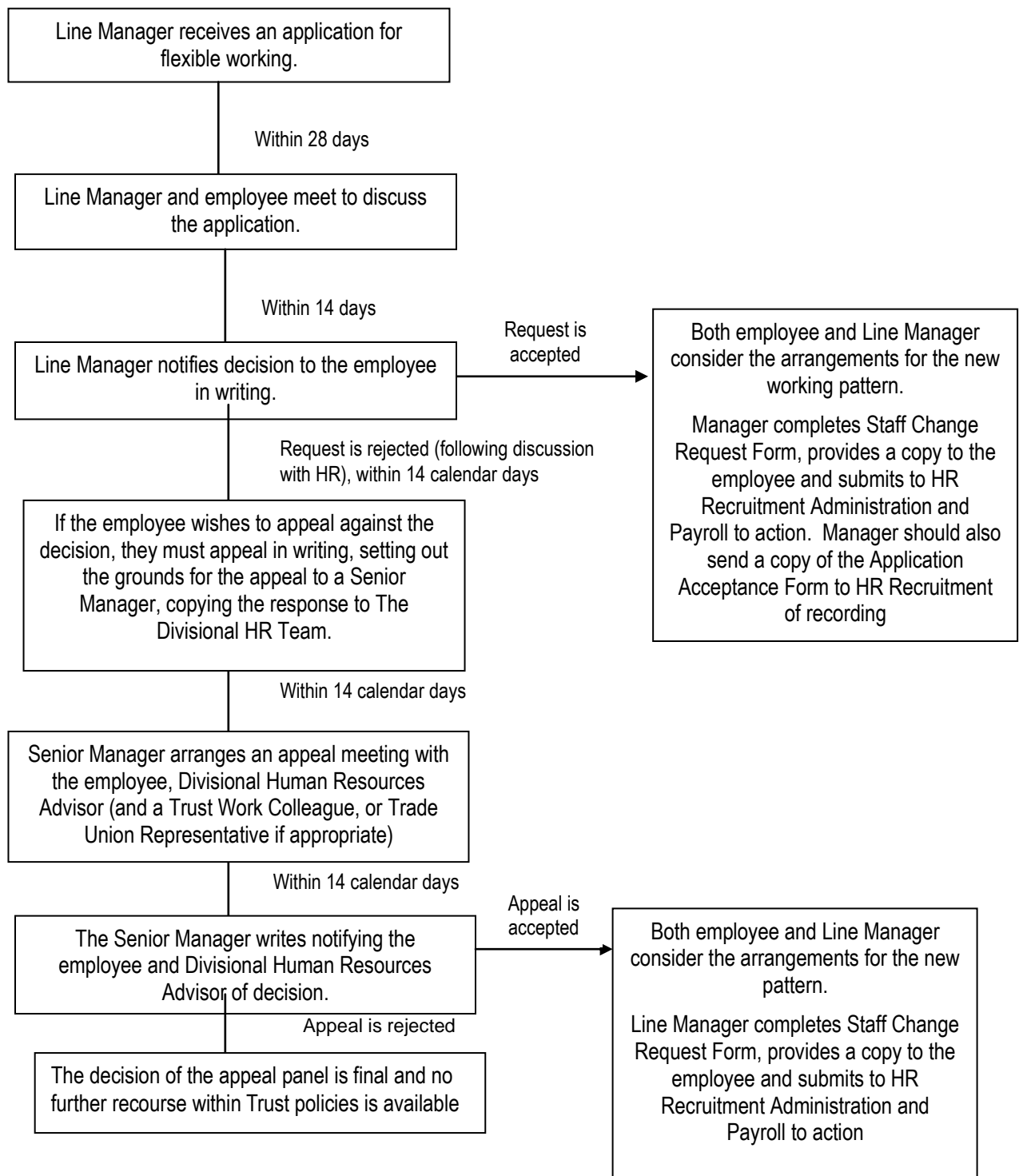
8.4 The employee should receive the outcome of the appeal meeting in writing within 14 calendar days of the appeal meeting.

8.5 The decision of the appeal panel is final and no further recourse within Trust policies is available.

8.6 If the manager arranges a meeting to discuss the application including any appeal and the employee fails to attend both this and a rearranged meeting without a good reason, the manager can consider the request withdrawn and must inform the employee of this

## APPENDIX 1

### FLEXIBLE WORKING FLOWCHART





## APPENDIX 2

### FLEXIBLE WORKING APPLICATION FORM

You should use this form to make a statutory request to apply for a flexible working pattern that is different from your current working pattern. Please read the Work Life Balance Policy and Flexible Working Guidance before completing this form.

In order for your request to be given full consideration please provide as much information as you can about your desired working pattern. It is important that you complete all the questions otherwise your application may not be valid. When completing sections 3 & 4, think about what effect your change in working pattern will have on both the work you do and your colleagues. Once you have completed the application form you should immediately forward it to your Line Manager (you may wish to retain a copy for your own records). Your Line Manager will then arrange a meeting with you to discuss your request within 28 days of receiving it. If your request is granted this will be a permanent change to your terms and conditions unless otherwise agreed.

#### **Note to the Line Manager:**

This is a formal application to request flexible working made under the University Hospitals Sussex NHS Foundation Trust Work Life Balance Policy and Flexible Working Guidance which accommodates the legal right to apply for flexible working and the duty on employers to consider applications seriously. You have 28 days after you receive this application in which to either agree to the request or arrange a meeting with your employee to discuss their request. You should confirm receipt of this application using the attached confirmation slip.

#### **1. Personal Details**

Name: ..... Payroll Number: .....

Line Manager: ..... Job Title: .....

#### **2a. Describe your current working pattern (days/hours/times worked):**

#### **2b. Describe the working pattern you would like to work in the future (days/hours/times worked):** (you may continue on a separate sheet if necessary)

#### **2c. I would like this working pattern to commence from (date):** ..... (You must give a minimum of 3 months' notice)

- 3. Impact of the new working pattern**  
The change in my working pattern will affect my employer and colleagues as follows:
- 4. Accommodating the new working pattern**  
As a suggestion I think the effect on my employer and colleagues can be dealt with as follows:
- 5. Clearly provide details of the reason for your request (please state if you are making a request in relation to the Equality Act 2010 i.e. reasonable adjustments for a disability)**

### Declaration

You must be able to tick both boxes to be able to make this application:

- ☐ I have worked continuously as an employee of the NHS for a minimum of 26 weeks.
- ☐ I have not made a statutory request to work flexibly under this right during the past 12 months.

Signature: ..... Date of application: .....

### NOW PASS THIS APPLICATION TO YOUR LINE MANAGER.

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

Dear: .....

I confirm that I have received your request to change your working pattern on.....  
(insert date)

I shall be arranging a meeting to discuss your application within 28 days following this date.  
In the meantime you might want to consider whether you would like a Trust Work Colleague or Trade Union Representative to accompany you at the meeting.

From (print name): ..... Date: .....

## APPENDIX 3

### FLEXIBLE WORKING APPLICATION ACCEPTANCE FORM

The Line Manager, when accepting an employee's application to work flexibly, should complete this form. If the Line Manager cannot accommodate the requested working pattern he/she may still wish to explore alternatives to find a working pattern suitable to both parties.

Please note that the Flexible Working Application Rejection Form should be used if an employee's working pattern cannot be changed, and no other suitable alternatives can be found.

#### Personal Details:

Name: ..... Job Title: .....

Dear: .....

Following receipt of your application on ..... (insert date) and our meeting on ..... (insert date)

We have considered your request for a new flexible working pattern in relation to:  
**(if this acceptance is a result of an informal discussion please state the reason for the change in working practice and if it is in relation to the Equality Act 2010 i.e. reasonable adjustments for a disability)**

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

Your new working pattern will be as follows:

Please tick as appropriate:

- ☐ Reduction to the original working hours – Please complete a Staff Change Request Form
- ☐ Increase to the original working hours – Please complete a Staff Change Request Form
- ☐ Change to the working pattern with no change to contracted hours – Staff Change Request Form not required

Has the individual made a statutory request to work flexibly under this right during the past 12 months? Yes/No

Your new working arrangements will commence on: ..... (insert date)

**Note to employee:**

Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment subject to any trial periods that have been agreed. You will also not be able to make another statutory request for the next 12 months.

If you have any questions regarding the information provided on this form, please contact either your Line Manager or the Divisional Human Resources Advisor to discuss them as soon as possible.

Signature: ..... Date: .....  
*Line Manager to sign*

Print name: .....

**Please forward a copy of the flexible working application and acceptance form to the Divisional Human Resources Team for equality monitoring purposes.**

## APPENDIX 4

### FLEXIBLE WORKING APPLICATION REJECTION FORM

The Line Manager, when declining an employee's application to work flexibly, should complete this form. Before completing this form the Line Manager must ensure that full consideration has been given to the application. It must state the business ground(s) as to why the Trust is unable to agree to a new working pattern and the reasons why the ground(s) applies in the circumstances. The list of permissible business grounds under which a request may be refused are detailed in section 7 of this policy entitled 'Grounds for Refusal'.

Dear: .....

Following receipt of your application and our meeting on: ..... (insert date)

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

The ground(s) apply in these circumstances because:

(Please explain why any other work patterns you may have discussed at the meeting are also inappropriate. Please continue on a blank sheet if necessary).

You have the right to appeal against this decision as outlined in Section 8 of the Flexible Working Guidance.

Signature: ..... Date: .....  
*Line Manager to sign*

Name: .....

**Please forward a copy of the flexible working application and rejection form to the Divisional Human Resources Team for equality monitoring purposes.**

## REFERENCE SOURCES

Disability Discrimination Act 1995	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Employment Act (2002)	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Employment Relations Act 2004	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Employment Rights Act (Amendments) Section 80 F	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Equality Act 2010	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Fixed Term Employees (protection from less favourable treatment) Regulations (2002)	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
The Flexible Working Eligibility (complaints and remedies) (Amendments) Regulations (2007)	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Part Time Workers (protection from less favourable treatment) Regulations (2000)	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Sex Discrimination Act 2008	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Work and Families Act (2007)	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Working time regulations (1998)	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
The Flexible Working Regulations (2014)	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>
Children and Families Act (2014)	<a href="http://www.opsi.gov.uk/acts">www.opsi.gov.uk/acts</a>