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TIME OFF IN LIEU (TOIL) PROCEDURE

Policy Statement

Public Health Wales Health recognises that on occasion employees may be asked to work over their contracted hours due to the needs of the service. This document outlines the Time Off in Lieu (TOIL) procedure within Public Health Wales.

Supporting Procedures and Written Control Documents

Flexible Working
Agenda for Change Terms and Conditions of Service
Special Leave Policy
Emergency Response Plan

Scope

Public Health Wales staff on Agenda for Change Terms and Conditions of service.

Equality and Health Impact Assessment

Integrated Assessment Tool (EHIA) completed.

Approved by

Senior Leadership Team

Approval Date

25 April 2018

Review Date

25 April 2020

Date of Publication:

16 May 2018

Group with authority to approve supporting procedures

Senior Leadership Team

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Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or [Corporate Governance](#).

Summary of reviews/amendments

Version number	Date of Review	Date of Approval	Date published	Summary of Amendments
1	25 April 2020	25 April 2018	16 May 2018	New document.

1. Introduction

Public Health Wales recognises that on occasion it may be necessary for employees to work over their contracted hours due to the needs of the service. This is expected to be exceptional; TOIL must not be used as a routine way of accruing hours.

The purpose of this procedure is to provide clear, fair and consistent practice in the application of time off in lieu for Public Health Wales staff across Wales.

2. Aim

This procedure outlines the Time Off in Lieu (TOIL) arrangements available to staff within Public Health Wales. The TOIL procedure is a structured way of recompensing staff who have worked over their contracted hours but can only be used with agreement of their line manager where the need has been demonstrated in order to support the individual, team or service as a whole.

3. Scope

Any member of staff working in Public Health Wales covered by Agenda for Change Terms and Conditions of Service, whether full or part-time. This procedure is for use in exceptional circumstances (eg. such as reacting to an outbreak or incident) outside of any local 'flexi-time system' where there is one in operation

4. Definitions

Time off in Lieu (TOIL) is re-claiming time owed for additional time that has been worked over the employees contracted hours instead of paying the employee for additional time. This may also include travel at the request of the organisation.

5. Guidelines

Procedure

TOIL is built up by working over the normal contractual hours outside of any flexi-time system where there is one in operation. The recognition of time worked over employees' contracted hours must be by agreement with line management and should only ever be in response to service needs.

There are many examples of where time owing should not be accrued, these guidelines do not seek to be exhaustive, however examples include:

- Where an employee arrives early or leaves late to miss traffic, or for any other reason to suit their personal circumstances
- Within the designated hours of a flexi time system being utilised by the employee
- When employees choose not to take breaks
- Due to poor time management
- As a means of accruing extra leave

When a small amount of time (15 minutes and over) of lieu time is worked for which staff wish to claim time off "in lieu" a TOIL record sheet (Appendix A) should be agreed, completed and countersigned by the line manager at the end of each calendar month. Staff should keep accurate records of time owed and taken using this form.

Staff should generally take time in lieu in small amounts, as soon as the service commitments allow, e.g. an extended lunch break or at the end of the day by agreement with the line manager.

If it is difficult to take small amounts of time, staff will be allowed to accumulate time. This should generally not amount to more than 7.5 hours (pro rata for part-time staff), within a calendar month.

It is expected that time in lieu that has been accrued is used by the end of the month following accrual. Where, for service delivery reasons, it is not possible for the time to be taken back within this period, managers should work with staff to plan when the lieu time can be taken within 3 months of accrual.

The procedure recognises that in certain areas of the organisation, and as a result of service need, there may be established and specific arrangements in place for the accrual and re-claiming of TOIL; for example to cover the laboratory services within Microbiology. These arrangements will continue.

It is recognised that there will be exceptional circumstances where time is accrued and an individual is not able to contact their manager, in which case authorisation in advance may not be possible. In such cases the manager should be informed as soon as possible (within 48 hours) and the TOIL record completed retrospectively.

TOIL for Training/ Study Days

Where applicable, if an employee is required to attend a training activity that is held on a day that is not normally worked by the employee, TOIL may be accrued with the approval of the line manager. The accrued TOIL can then be taken by the employee at a time/day agreed with their line manager. There must be approval from the line manager prior to TOIL being taken.

TOIL for Travel Time

TOIL should not be accrued for travel time to or from work regardless of whether the work base is temporary or permanent.

TOIL should not be accrued due to an overnight stay as a result of working away from home. However TOIL will be included for work/training and travel which is over and above an individual's daily contracted hours of work plus their normal daily commute. For example:

If an individual is contracted to work 7.5 hours each day and has a total daily commute of 1.5 hours (a total of 9 hours away from home), then should they attend an all-day meeting on another site where the total travel time is 3 hours (a total of 10.5 hours away from home) they would accrue TOIL of 1.5 hours.

Recording and Authorisation of TOIL

Line managers and staff should agree the need for additional time to be worked prior to it commencing; regardless of the employees contractual status. All TOIL accrued and taken should be clearly documented on TOIL Form **Appendix 1** and monitored by line manager.

Line managers should agree when the time can be taken back, to be mutually convenient for the service and employee.

There may be times when a manager has previously authorised TOIL but due to the needs of the service, they may have no option but to cancel the agreed TOIL and request that the employee take TOIL back at another mutually convenient time. The manager will amend the form accordingly.

Claiming Back TOIL

Every effort will be made to accommodate staff requests for taking time owing, but ultimately this will depend on the needs of the service and the staffing arrangements at the time. Bank, agency, or overtime must not be used to facilitate an individual taking TOIL.

All requests to take TOIL must be planned and authorised by line manager, regardless of the employee's contractual status. Managers must enable employees who have accrued TOIL to take the time back as quickly as possible and within 3 months.

If TOIL has been accrued by working a whole day or shift, then it is reasonable that this time is taken as a whole shift. However, there may be occasions in line with service needs where managers may request shorter periods of TOIL are taken.

Payment of outstanding TOIL will be made after 3 months in accordance with Agenda for Change for staff on Band 7 and below. Payment will however not be made where Public Health Wales has made a reasonable offer for the employee to take time off in lieu, which has been refused.

Part-time employees receive plain time rates for additional hours until such hours exceed the standard hours of 37.5.

6. Overtime Payments and TOIL

Employees in bands 1-7 have a contractual right to be paid at the appropriate overtime rate for approved additional hours worked in excess of the standard full time hours of 37.5 hours per week. Part time employees will receive payment for additional hours worked at plain rates until the number of hours worked at plain time rates exceed the standard full time hours unless they take TOIL instead of payment.

Under the national agreement set out in the Agenda for Change handbook, employees may request to take time off in lieu as an alternative to receiving overtime payments. However, where there are operational reasons staff are unable to take the time of in lieu or unable to take it within 3 months (of the time being worked) they must receive the overtime payment, unless there are exceptional circumstances.

Senior staff (Bands 8 and 9) are not entitled to overtime payments but may accrue TOIL. It is recognised that staff in these bands are required to work reasonable additional hours from time to time.

TOIL may be granted for some hours if these hours are becoming excessive, in order for the employee is able to rest and recover from a period of long working hours. There should not be an expectation that staff in these bands routinely work additional hours.

7. Communication to staff

Line managers are responsible for explaining and agreeing use of this procedure with staff.

8. Monitoring and auditing

Line managers are responsible for monitoring the use of TOIL.

9. Review

This procedure will be reviewed initially six months after implementation then every two years or as required to support Public Health Wales policies. Any changes to the procedure will be agreed in line with the organisation's process for the approval of procedures.

10. Further information

If you require any further information on the contents of this document, you should contact your line manager.

This policy is inclusive of all staff regardless of age, marriage (including equal/ same sex marriage) and civil partnership, disability, sex, sexual orientation, pregnancy and maternity, race, religion or belief, or gender identity.

Appendix 1 Time Of In Lieu Record

Staff Name	
Designation	
Base	
Contracted Hours Per Week	

Date	Time Accrued	Time Taken Back	Reason for TOIL	Authorised by	Total TOIL HOURS