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Public Health
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TIME OFF IN LIEU (TOIL) PROCEDURE

Introduction and Aim

Public Health Wales is committed to creating an environment where people can thrive and meet their full potential.

It is recognised that on occasion employees may be asked to work over their contracted hours due to the needs of the service.

This Policy sets out the arrangements for the Time Off in Lieu (TOIL) procedure and aims to ensure that all staff are treated fairly and consistently in line with existing NHS Terms and Conditions of Service.

Linked Policies, Procedures and Written Control Documents

Flexible Working Policy
NHS Terms and Conditions of Service Handbook (Agenda for Change)
Special Leave Policy
Managing Attendance at Work Policy
Respect and Resolution Policy
Guidance on Record Retention & Destruction

Scope

Public Health Wales employees on NHS Terms and Conditions of Service Handbook (Agenda for Change).

Equality and Health Impact Assessment	An Equality, Welsh Language and Health Impact Assessment has been completed and can be viewed on the policy webpages.
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Approved by	Leadership Team
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Accountable Executive Director/Director	Neil Lewis, Director of People and Organisational Development
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Author	Abigail Wilcox, Senior Leadership and OD Practitioner
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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 the [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.
2	6 April 2022	TBC	TBC	<p>Updated the wording in relation to guidelines concerning the amount of TOIL accrued each month/frequency</p> <p>Amended management information for clarity (48 hour period and delegation of authority under Procedure section)</p> <p>Flexi-time system definition added</p> <p>Procedure has been re-formatted in line with revised procedure template</p> <p>References made to Managing Attendance at Work and the Respect and Resolution policies</p> <p>Inclusion of a records management statement</p> <p>Clarification regarding overtime payment process (including the appropriate timeframes, the various pay bands and part time employees)</p> <p>Appendix 1 amended to include start/finish time and reason for TOIL</p>

1 Introduction

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

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. Time off in Lieu (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 (TOIL) for Public Health Wales employees across Wales.

This procedure outlines the TOIL arrangements available to employees 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.

This policy is inclusive of all staff covered by the NHS Terms and Conditions of Service Handbook (Agenda for Change), whether full time or part-time, 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.

2 Roles and responsibilities

Relevant responsibilities are detailed accordingly in each relevant part of the procedure.

3 Procedure

3.1 Definition

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.

3.2 Exceptions

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. Flexible working arrangements may wish to be considered in these circumstances instead
- 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. Other policies and procedures may be applicable, e.g. Managing Attendance at Work and managers should consider what support can be put in place to help address this
- As a means of accruing extra leave

3.3 Accruing TOIL

When a small amount of time (15 minutes and over) off in lieu time is worked for which employees wish to claim time off "in lieu" a TOIL record sheet (Appendix 1) should be agreed, completed and countersigned by the line manager at the end of each calendar month. Employees should keep accurate records of time owed and taken using this form.

Employees 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, employees will be allowed to accumulate time. 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 employees to plan when the lieu time can be taken within 3 months of accrual.

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. If the manager is

unavailable during this period, the 48 hour period may be extended.

3.4 Recording and Authorisation of TOIL

Line managers and employees should agree the need for additional time to be worked prior to it commencing, whenever possible; regardless of the employee's contractual status. All TOIL accrued should be taken within 3 months and should be clearly documented on TOIL Form (Appendix 1) and monitored by line manager.

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.

It is also recognised that a line manager may delegate the authority to authorise TOIL to those with supervisory responsibilities within the team and the same procedure should be followed.

3.5 Claiming TOIL

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

Every effort will be made to accommodate employee 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 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.

3.6 Disagreements

In the event of disagreements concerning TOIL, please refer to the Respect and Resolution Policy, which is aimed at securing constructive and lasting solutions to workplace disagreements, conflicts and complaints. Any disagreements should be worked through in line with Public Health Wales' values: Working together with trust and respect to make a difference.

3.7 Overtime and TOIL

Employees who, for operational reasons, are unable to take time off in lieu within three months must be paid at the appropriate overtime rate.

4 Overtime Payments and TOIL

4.1 Band 1-7 colleagues

Payment of outstanding TOIL will be made after 3 months in accordance with Agenda for Change for employees 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.

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 (unless the hours worked are subject to enhancements e.g. unsocial hours) 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 NHS Terms and Conditions of Service Handbook (Agenda for Change), employees may request to take time off in lieu as an alternative to receiving overtime payments. However, where there are operational reasons employees are unable to take the time off 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.

4.2 Bands 8a-9 colleagues

Senior employees (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 to rest and recover from a period of long working hours. There should not be an expectation that employees in these bands routinely work additional hours.

5 Other considerations

5.1 TOIL for Training

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.

5.2 TOIL for Travel Time

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 to the employee's contractual base. 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.

5.3 Local arrangements

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.

5.4 Flexitime System

Flexitime is a formal scheme which allows employees some limited discretion around the start and end time of the working day. This is stipulated within a strict framework of prescribed core working times. Flexitime systems, when in place, should be agreed locally in line with the needs of the service in question.

6 Training requirements

The procedure is available to all employees on Public Health Wales' intranet pages. People and OD will ensure that this procedure is appropriately implemented across Public Health Wales. Line managers are responsible for explaining and agreeing use of this procedure with staff.

Advice and guidance can be sought from People and OD by emailing, PeopleSupport.PHW@wales.nhs.uk

7 Monitoring compliance

People and OD will monitor and audit this procedure to ensure it is compliant with current legislation.

We are continually looking to improve our employment practices and welcome any feedback you may have in relation to this Policy. Feedback can be provided by emailing, PeopleSupport.PHW@wales.nhs.uk

Line managers are responsible for monitoring the use of TOIL and should proactively explore ways of supporting employees who are frequently working above their contracted hours

8 Records Management

All documents generated under this procedure are official records of Public Health Wales and will be managed and stored and utilised in accordance with Public Health Wales' Guidance on Record Retention & Destruction.

Appendix 1 – Time Off in Lieu Record

Employee Name	
Department	
Base	
Contracted Hours Per Week	

Date and day of the week TOIL was accrued	Hours worked (start/end time)	Reason for TOIL	Amount of TOIL Accrued (hours/minutes)	Date/time TOIL will be taken	Authorised by