

FINAL DRAFT

NHSSCOTLAND

**PROPOSED AGREEMENT FOR ACCRUING, RECORDING AND RECLAIMING OF
TIME OFF IN LIEU (TOIL)**

1. STATEMENT OF INTENT

1.1 The effective management of TOIL is an essential element of workforce governance and supports best use of NHS resources, as well as ensuring the safety of staff and patients.

2. PURPOSE

2.1 The purpose of TOIL is to ensure that:

- staff have a healthy balance between home and work life, and
- that time accrued is taken back at the convenience of the service and the individual. It should also be taken as soon as possible after it has been accrued.

3. SCOPE

3.1 This agreement applies to all NHSScotland staff employed under Agenda for Change Terms and Conditions of Service. The term “staff” is a collective term that includes full time, part time and temporary staff.

4. PRINCIPLES

4.1 Time owing is time that is worked in excess of contracted hours. However, in order to be considered as TOIL, this must be 15 minutes or more at the start or end of a staff member’s rostered shift or outwith their usual hours of work, where there is an operational requirement to do so and when it is approved by an appropriate manager.

4.2 Managers must ensure that effective systems are in place to ensure that time accrued is accurately recorded and in a timely manner. This should be an approved electronic system, and time accrued must be authorised by the staff member’s manager.

4.3 It is the staff member's responsibility to ensure that the accrual and subsequent taking of time off in lieu is authorised by their manager. Any discrepancies must be discussed and resolved by the manager and the member of staff at the earliest opportunity. Any adjustment to accumulated time owing and/or time owed can only be authorised by the manager.

4.4 Managers will not normally allow the accrual of more than 15 hours time owing within a calendar month. Where the maximum accrual is reached it is the responsibility of the manager and the member of staff to:

- take the necessary action to reduce the time owing by giving time back, or
- arrange payment for any TOIL not taken within 3 months. Payment will be at plain time rates only.

4.5 Staff are contracted to work a specified number of hours per week, and in line with Agenda for Change TCS, staff who work a shift of more than 6 hours are expected to take an unpaid break of at least 20 minutes. Managers have a responsibility for ensuring staff take their allocated break using the agreed system. Any unpaid breaks not taken must be the **exception** and not the rule, and authorised by the appropriate manager. TOIL must be given in such circumstances. Careful consideration of the Working Time Regulations and relevant national and local policies relating to health and wellbeing must be given when staff are failing to take or receive breaks.

5. CONCLUSION

5.1 This agreement has been developed in partnership through a sub group of the Scottish Terms and Conditions Committee. It is the responsibility of each Health Board to ensure that the implementation of this agreement is agreed locally in partnership thereby ensuring the efficient and effective management of TOIL.

Questions that may be asked might include:

- (1) **Q. Am I entitled to TOIL if I regularly work beyond my shift but for less than 15 minutes?**
- A. Working regularly beyond your shift should be raised with your manager and a resolution sought. TOIL is not payable for any period of less than 15 minutes.
- (2) **Q. What do I do if my manager is not available to approve my TOIL?**
- A. Local management arrangements should be in place to allow such authorisation in the absence of an appropriate manager. However, if there is no-one is available it can be authorised retrospectively, as soon as is practically possible.
- (3) **Q. If I am required to do more than 15 hours TOIL within a calendar month, will I lose the excess time?**
- A. No. This must be discussed with your manager to ensure that time back is taken as soon as possible after the extra time is worked. Payment can also be made for any time not taken within 3 months of the time being worked. This will be paid at plain time rates.
- (4) **Q. Can I request payment rather than TOIL?**
- A. No. Every effort must be taken to take time back in accordance with Agenda for Change Terms and Conditions of Service. However, if TOIL has not been taken within 3 months of the time being worked, payment can be made at plain time rates.
- (5) **Q. I undertake bank shifts. Does TOIL apply to me?**
- A. No. You will be paid for all hours worked during each Bank shift.
- (6) **Q. What rate is TOIL paid at?**
- A. All TOIL is paid at plain time.
- (7) **Q. What can I do if I have a disagreement with my manager about time owing?**
- A. This should be referred to the next manager above the manager with whom you are having the disagreement.

(8) Q. I work on a flexi-time pattern, does TOIL apply to me?

A. No. If flexi-time arrangements are in place these apply rather than TOIL.

(9) Q. If I am employed on a full time contract and asked to work an extra shift does TOIL apply?

A. No. This additional shift worked should be regarded as overtime (for staff employed in posts up to and including Band 7) and paid in line with the Agenda for Change Terms and Conditions of Service

(10) Q. If I am employed on a part-time contract and asked to work an extra shift does TOIL apply?

A. No. This additional shift work will be regarded as additional hours and paid in line with the Agenda for Change Terms and Conditions of Service.

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