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 <p>Iechyd Cyhoeddus Cymru Public Health Wales</p>	<p><b>Reference Number:</b> PHW-STP01 <b>Version Number:</b> 3 <b>Date of Next review:</b> Jan 29</p>
<p align="center"><b>TIME OFF IN LIEU (TOIL) PROCEDURE</b></p>	
<p><b>Introduction and Aim</b></p> <p>Public Health Wales is committed to creating an environment where people can thrive and meet their full potential. Effective management of TOIL supports staff wellbeing and demonstrates leadership behaviours that value fairness and respect.</p> <p>It is recognised that, on occasion, individuals may be asked to work over their contracted hours due to the needs of the service.</p> <p>This Procedure sets out the arrangements for the Time Off in Lieu (TOIL) and aims to ensure that all staff are treated fairly and consistently in line with existing NHS Terms and Conditions of Service.</p>	
<p><b>Linked Policies, Procedures and Written Control Documents</b>  <a href="#">All corporate policies and procedures are available on the Public Health Wales website</a></p> <p>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 &amp; Destruction  Work How it Works Best  <a href="#">Being Our Best</a></p>	
<p><b>Scope</b></p> <p>Public Health Wales employees on NHS Terms and Conditions of Service Handbook (Agenda for Change).</p>	
<p><b>Equality and Health Impact Assessment</b></p>	<p>An Equality, Welsh Language and Health Impact Assessment has been completed and can be viewed on the policy webpages.</p>
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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 [Board Business Unit](#).

### Summary of reviews/amendments

Version number	Date of Review	Date of Approval	Date published	Summary of Amendments
1	2018	25/04/18	16/05/18	First Procedure
2	2022	18/08/22	24/08/22	Updated procedure
3	2025	20/01/26	26/01/26	<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 individual'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 colleagues 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 staff 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 manager where the need has been demonstrated in order to support the individual, team, or service as a whole.

This procedure 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.

Managers should apply this procedure with fairness and transparency, demonstrating behaviours that foster psychological safety and open communication.

## **3 Procedure**

### **3.1 Definition**

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

Managers have the discretion to approve or decline requests for taking TOIL based on business needs, service demands, and operational considerations. They are also expected to facilitate staff taking their accrued time within 3 months and must ensure their decisions are consistent, fair, and do not violate the company's TOIL procedure, which may include time limits or requirements for prior approval

### **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 individual arrives early or leaves late to miss traffic, due to car parking or other parking concerns such as space availability where the member of staff must park further away, or for any other reason to suit their personal circumstances. Flexible Working arrangements may need to be considered in these circumstances instead.
- When colleagues 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. Other policies and procedures may be applicable, e.g. Annual Leave Purchase Scheme.

### **3.3 Accruing TOIL**

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

Staff should 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 manager.

If it is difficult to take small amounts of time due to organisational needs or other requests, individuals will be allowed to accumulate time. The maximum number of TOIL hours accrued in the NHS is typically 20 hours or the equivalent of 2 days' work. However, in exceptional cases, managers have the discretion to increase the maximum limit to 5 days. It is expected that TOIL 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 and 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**

Managers and colleagues 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 the manager.

In exceptional circumstances, 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 individual take TOIL back at another mutually convenient time. Retracting agreed TOIL should be a last resort and the manager must provide reasonable notice. Managers must apply a common-sense approach and be mindful that a colleague may have committed to important arrangements such as childcare or other commitments that may be difficult to alter. Where mutually agreed, the manager will amend the form accordingly.

It is also recognised that a 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**

Managers should agree when the time can be taken back, to be mutually convenient for the service and individual colleagues.

TOIL must be accrued before it can be taken. TOIL request cannot exceed the amount of TOIL accrued.

Every effort will be made to accommodate individual 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 the manager, regardless of the employee's contractual status. Managers must enable individuals 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.

For more advice, PHW Staff may book a space on a [HR Clinic](#), to secure a 30-minute 1:1 slot with a People and OD Advisor.

Advice and guidance can be sought from People and OD by emailing, [PeopleSupport.PHW@wales.nhs.uk](mailto:PeopleSupport.PHW@wales.nhs.uk)

## **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 individual to take time off in lieu, which has been refused.

Staff 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, and staff 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 colleagues (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 individual to rest and recover from a period of long working hours. There should not be an expectation that colleagues in these bands routinely work additional hours.

## **5 Other considerations**

### **5.1 TOIL for Training**

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

### **5.2 TOIL for Travel Time**

TOIL should not be accrued due to an overnight stay because 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 home to base 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 Managers discretion and recognises that in certain areas of the organisation, because of service needs, 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.

## **6 Training requirements**

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

For more advice, Managers may book a space on a [HR Clinic](#), to secure a 30-minute 1:1 slot with a People and OD Advisor

Advice and guidance can be sought from People and OD by emailing, [PeopleSupport.PHW@wales.nhs.uk](mailto: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 procedure. Feedback can be provided by emailing, [PeopleSupport.PHW@wales.nhs.uk](mailto:PeopleSupport.PHW@wales.nhs.uk)

People 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.

Managers should review TOIL patterns to identify wellbeing risks and support sustainable working practices.

## **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.

## **9 Equality and Welsh Language**

An Equality, Welsh Language and Health Impact Assessment has been completed and has not identified any potential negative impacts (unintended consequences) or gaps.

This policy will be made available in Welsh on our Policy webpages.

## FREQUENTLY ASKED QUESTIONS

### **Am I entitled to TOIL if I regularly work beyond my shift but for less than 15 minutes?**

Working regularly beyond your shift should be raised with your manager and a resolution sought. The agreed TOIL provisions do not apply to any period of less than 15 minutes.

### **What do I do if my manager is not available to approve my TOIL?**

Local management arrangements should be in place to allow such authorisation in the absence of an appropriate manager. However, if no one is available it can be authorised retrospectively, as soon as is possible.

### **Can I take time off first then build up TOIL to owe back the time?**

No, TOIL must be accrued before it can be taken. The amount of TOIL requested cannot exceed the amount accrued.

### **Can I build TOIL to use as Annual Leave?**

TOIL should not be used as a means of accruing extra leave. Other policies and procedures may be more suitable, e.g. Annual Leave Purchase Scheme. The maximum number of TOIL hours accrued in the NHS is typically 20 hours or the equivalent of 2 days' work. However, in exceptional cases, managers have the discretion to increase the maximum limit to 5 days.

### **What is managers discretion?**

Manager discretion in Time Off In Lieu (TOIL) policies allow managers to approve or decline requests for time off based on business needs, service demands, and operational considerations and apply discretion in relation to amount of TOIL accrued and time limits for taking leave.

### **Can I build or take TOIL if I arrive early or leave late to miss traffic or to avoid car parking concerns such as limited space availability and having to park further away?**

No. Flexible Working Policy and individual arrangements may need to be considered in these circumstances instead. See Flexible Working Policy, Flexible Working Toolkit and Work How it Works Best for more information.

### **Can I request payment rather than TOIL?**

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. Payment will 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

**How is pay and time off in lieu (TOIL) calculated if I work on general public holidays?**

Staff required to work or to be on-call on general public holidays are entitled to time off in lieu at plain time rate in addition to the appropriate payment for the duties undertaken in line with the Agenda for Change Terms and Conditions of Service

**I undertake bank shifts. Does TOIL apply to me?**

No. You will be paid for all hours worked during each Bank shift.

**What can I do if I have a disagreement with my manager about time owing?**

See Respect and Resolution Policy and Toolkit for details. Informal resolution is often the most effective way to address workplace disagreements.

**I have a 'Flexi-Time' flexible working arrangement, does TOIL apply to me?**

No. If flexi-time arrangements are in place these apply rather than TOIL. See Flexible Working Policy and Toolkit for more detail and other types of Flexible Working.

**If I am employed on a full-time contract and asked to work an extra shift does TOIL apply?**

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. Staff may request to take time off in lieu as an alternative to overtime payments. 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, staff who, for operational reasons, are unable to take time off in lieu within three months must be paid at the overtime rate.

**I am employed on a part-time contract and asked to work an extra shift does TOIL apply?**

This additional shift work will be regarded as additional hours and paid in line with the Agenda for Change Terms and Conditions of Service. Staff may request to take time off in lieu as an alternative to overtime payments. 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, staff who, for operational reasons, are unable to take time off in lieu within three months must be paid at the overtime rate.

