

The Scottish Government

Directorate for Health Workforce, Leadership and Service Reform  
NHS Pay and Conditions



Scottish Government  
Riaghaltas na h-Alba  
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Dear Colleague

### TIME OFF IN LIEU (TOIL)

1. As part of the three year Agenda for Change pay deal agreed in 2018, NHS Scotland Employers and Staff Side also agreed to develop guidance around the use the Time Off In Lieu (TOIL), further to the provision set out in Section 3 of the Agenda for Change Handbook.
2. This work has been taken forward in partnership by a Working Group created under the aegis of the Scottish Terms and Conditions Committee (STAC).
3. The guidance developed by the Working Group is attached at Annex A. The Working-Group has also developed a Q&A in support of the new guidance, and this is attached at Annex B.
4. These provisions are effective from 1 April 2019. Boards should work locally through their Area Partnership Forum to put all the agreed aspects of the new policy in place as quickly as possible.

### Cabinet Secretary Approval

5. The provisions of this circular have been approved by Scottish Ministers under Regulations 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 (SI 1991 No 537). A copy of the formal approval is attached.

### Action

6. NHS Boards and Special Health Boards should follow the procedures, advice and timescales set out in the guidance.

26 April 2019

#### Addressees

##### For action

Chief Executives,  
Directors of Finance,  
Directors of Human Resources:  
NHS Boards and Special Health  
Boards, NHS National Services  
Scotland (Common Services  
Agency) and Healthcare  
Improvement Scotland

##### For information

Members, Scottish Partnership  
Forum  
Members, Scottish Terms and  
Conditions Committee  
Members, Scottish Workforce and  
Governance Committee

#### Enquiries to:

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## Enquiries

7. Employees should direct their personal enquiries to their employing NHS Board or Special Health Board.

8. Employers should make their own arrangements for obtaining additional copies of this circular, which can be viewed at:

[www.sehd.scot.nhs.uk](http://www.sehd.scot.nhs.uk)

Yours sincerely

A handwritten signature in black ink that reads "Shirley Rogers". The signature is written in a cursive style with a period at the end.

**SHIRLEY ROGERS**

NHS Scotland Chief People Officer &

Director of Workforce, Leadership, Reform and EU Withdrawal Preparation



**NATIONAL HEALTH SERVICE  
APPROVAL OF REMUNERATION AND CONDITIONS OF SERVICE**

In accordance with regulations 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 (S.I. 1991/537) the remuneration and conditions of service set out in the attached Scottish Government Health Workforce Directorate circular of 26 April 2019 – PCS(AFC)2019/4 – in respect of the use of Time Off In Lieu (TOIL) are hereby approved for the purposes of the said Regulations.

**SHIRLEY ROGERS**

NHS Scotland Chief People Officer &  
Director of Workforce, Leadership, Reform and  
EU Withdrawal Preparation  
Scottish Government  
St Andrew's House  
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26 April 2019

## **AGREED POLICY ON ACCRUING, RECORDING AND RECLAIMING OF TIME OFF IN LIEU (TOIL) FOR AGENDA FOR CHANGE STAFF IN SCOTLAND**

### **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 recognise that:

- staff, on occasion, start work before or work beyond the end of their normal working day/shift.

And 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 NHS Scotland 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. This agreement is intended to cover situations where staff start work before or work beyond the end of their normal working day/shift on an ad hoc basis. It is not related to planned overtime.

### **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 electronic system approved and applied consistently across the Board. 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. (It is recognised that due to the unique circumstances of the Scottish Ambulance Service the amount of accrual will be agreed locally). 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 as set out in Section 3 of the Agenda for Change Handbook.

4.5 Staff are contracted to work a specified number of hours per week, and in line with Agenda for Change Terms and Conditions of Service, 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.

**FREQUENTLY ASKED QUESTIONS**

- (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. The agreed TOIL provisions do not apply to 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 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.
- (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.
- (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 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.
- (7) 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.
- (8) Q. If I am employed on a full-time contract and asked to work an extra shift does TOIL apply?**
- A. 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.

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

A. This additional shift work will be regarded as additional hours and paid in line with the Agenda for Change Terms and Conditions of Service.