

# **Wales Negotiating Committee Further Education**

## **Joint Agreement for Time Off in Lieu (TOIL) for Management Contract Staff**

Version: **FINAL**

Date of Review: October 2020

WNCFE (Adoption and Signature) on 13 October 2017

Approved by College Principals on 18 July 2017

Approved by WNCFE on 21 June 2017

Creation Date: 24 February 2015

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**Appendices:**

If you or someone you know would like this document in an alternative format please contact:

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## **1. Context**

- 1.1 Colleges recognise that the nature of their work means that on occasions managers will be needed to work outside recognised working hours. However, colleges also recognise their duty to protect the health and safety of managers by ensuring they do not work excessive hours, and that any additional hours are agreed in advance and monitored appropriately.

## **2. Status**

- 2.1. This agreement has been jointly agreed between the trade unions and employers in the Wales Negotiating Committee Further Education.
- 2.2. This agreement is for use by individual Colleges in order to develop policy and procedure for the management of TOIL for staff employed in accordance with the terms and conditions set out in the national contract for managers. In determining local policy, normal consultation arrangements should apply with recognised trade unions in accordance with the terms set out in this collective agreement.
- 2.3. This document was impact assessed at a national level to assist Colleges in meeting the requirements of Equality legislation and the Welsh Language Act. The Equality Impact Assessment is detailed in Appendix 1. It is for each College to undertake their own equality impact assessment at local level.

## **3. Scope**

- 3.1. This agreement applies to all managers employed in accordance with the terms set out in the national contract for managers.
- 3.2. This agreement aims to promote fairness and equality and provide guidance to managers when hours are worked in excess of recognised contractual hours.

## **4. Definition of TOIL**

- 4.1 TOIL is a working arrangement, within which managers are allowed to take time off in compensation for hours worked beyond the normally recognised working day (dependent upon their role/contract). The normal working week is a 37 hour week for full time staff
- 4.2 Toil applies to additional periods of work (specifically agreed in advance, with their manager) either before or after the normal working day. It does not apply to lunch periods. Managers must encourage staff to take the appropriate lunch break each day. If lunchtime meetings are necessary, then staff should be allowed to take a break either before or after the meeting, by mutual agreement.

## **5. Policy requirements**

**The aim of this agreement is to enable colleges to develop policy to meet the following requirements:**

- 5.1 TOIL should be accrued as an exception rather than as a routine occurrence as most work duties should be carried out as part of a managers normal contractual working hours. Individual work patterns should be agreed locally with line manager (s) where this requires regular / weekly evening working for example.
- 5.2 Accrued TOIL will be taken back on a like for like basis. This will include any TOIL accrued for weekend working.
- 5.3 The minimum block of time that can be recorded for TOIL purposes is 30 minutes.
- 5.4 TOIL should not be accrued on a regular basis. However, where a member of staff is working regular TOIL hours for a specified period and by agreement with their line manager, they must keep a shared TOIL record which records all TOIL worked and can be accessed by their line manager. Banked TOIL should be taken at a time mutually convenient to the staff member and department and with agreement from the line manager.
- 5.5 TOIL will not normally be accrued for work undertaken at home, unless it is agreed in advance by the line manager.
- 5.6 Any TOIL accrued should be taken within (To be agreed by the Principal and be College Wide) or will be lost. In very exceptional circumstances some TOIL may be carried over to the following (to be agreed by the Principal and be College Wide) but must be agreed with Human Resources
- 5.7 No more than 2 days (15 hours or pro-rata for part time staff) of TOIL can be taken at any one time unless agreed by exception or up to 5 days if taken during the holiday periods, subject to line management agreement.
- 5.8 On termination of employment all TOIL should be taken prior to an employee leaving, however, where this is not possible and in exceptional circumstances, untaken TOIL will be paid.
- 5.9 Where an early start and / or late finish is required during the term time to facilitate a necessary course related trip and therefore, extending the working day. TOIL agreed in these circumstances may be banked to be taken at a time mutually convenient.

## **6. Management of Time off in lieu**

- 6.1 All TOIL arrangements are subject to approval in advance by the Line Manager, who will co-ordinate TOIL to ensure that there is always adequate cover for all activities within the department.
- 6.2 TOIL is to be taken at a mutually agreeable date, outside of contact time and admin weeks wherever possible during the next available holiday period or earlier

e.g. where a request for Leave of absence with pay (e.g. to attend hospital appointment) is submitted, staff would be expected to use any accrued TOIL in the first instance.

- 6.3 Employees are responsible for recording their own TOIL and should be recorded [individual college to insert name of system to be used] and this should be monitored by the line manager. Any fraudulent or false records presented in respect of TOIL may be treated as gross misconduct under the College's Disciplinary procedure.

### **Monitoring and review**

This agreement will be monitored and reviewed every three years by the Wales Negotiating Committee Further Education.

Next review date : October 2020

# Wales Negotiating Committee Further Education

## Joint Agreement for Time Off in Lieu for Management Contract Staff

### SIGNATURES OF THE PARTIES TO THIS AGREEMENT

- (a) ColegauCymru .....
- (b) ATL/AMiE .....
- (c) GMB .....
- (d) NASUWT .....
- (e) UCU .....
- (f) Ucac .....
- (g) UNISON .....
- (h) Unite – the Union .....

Date of Commencement of this Agreement:

..... 2017

## **Wales Negotiating Committee Further Education (WNCFE)**

### **Equality Impact Assessment**

#### **Summary**

**1. Name of function/agreement:**

Joint Agreement for Time Off in Lieu (TOIL) for Management Contract Staff

**2. Scope**

This agreement applies to all managers employed in accordance with the terms set out in the national contract for managers.

This agreement aims to promote fairness and equality and provide guidance to managers when hours are worked in excess of recognised contractual hours.

**3. Lead Officer/committee member:**

This Equality Impact Assessment was undertaken by the WNCFE Drafting Group and has been reviewed by the WNCFE Committee.

**4. Main Aims/purposes/outcomes of the agreement:**

2.1. This agreement has been jointly agreed between the trade unions and employers in the Wales Negotiating Committee Further Education.

2.2. This agreement is for use by individual Colleges in order to develop policy and procedure for the management of TOIL for staff employed in accordance with the terms and conditions set out in the national contract for managers. In determining local policy, normal consultation arrangements should apply with recognised trade unions in accordance with the terms set out in this collective agreement..

**5. Has consultation taken place regarding this agreement?**

The WNCFE has engaged with Colleges and Joint Trade Unions in determining any impact on people with protected characteristics. The following key points have been identified and incorporated into the agreement:

- TOIL is a working arrangement, within which managers are allowed to take time off in compensation for hours worked beyond the normally recognised working day (dependent upon their role/contract).
- The agreement aims to ensure that Colleges develop policy and procedure for TOIL which is inclusive and reflects the terms set out in a fair and consistent way for all managers employed in FE.
- It also allows for Colleges to consider developing policy to enable managers to respond to domestic events in their personal lives

**6. What is being done to limit any negative impact or promote positive impact on protected groups (See section 2)?**

The agreement sets out the requirement that colleges will ensure their TOIL policy for managers is brought to the attention of all managers and staff and is well publicised.

It also commits to ensuring that all managers receive appropriate training on the implementation of this policy.

**7. How will the proposals help promote equality, eliminate discrimination and promote good relations?**

The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling Colleges to consider developing policy for managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL arrangements for managers and all protected characteristics.

**8. Is there an action plan in place? YES**



## Equality Impact Assessment

### 1. Data Collection and Evidence

<p><b>What evidence e.g. data, research, results of engagement and consultation have you used to consider how this agreement might affect people with protected characteristics?</b></p> <p><b>Evidence should be linked clearly to the relevant protected characteristic</b></p> <p>Please link to any relevant documents. Describe who you engaged with and the results? <b>(It is a statutory requirement to engage with people with protected characteristics).</b></p> <p><b>The committee in considering the duty in respect of negotiations will want to consider national data as well as data specific to the sector</b></p>	<p>In considering relevant data and evidence, the WNCFE Committee have considered the following:</p> <p><b>Legislation:</b> The WNCFE has considered the main Regulations covering working time as follows:</p> <ul style="list-style-type: none"><li>• The Working Time Regulations 1998 (SI 1998/1833) (WTR) and</li><li>• The Working Time (Amendment) Regulations 2007 (SI 2007/1079).</li><li>• The above Regulations came into force on 1 October 1998 and 1 October 2007 respectively and implement the provisions of the EC Working Time Directive (93/104/EC).</li></ul> <p><b>Engagement:</b> The WNCFE has engaged with Colleges and Joint Trade Unions in determining any impact on people with protected characteristics. The following key points have been identified and incorporated into the agreement:</p> <ul style="list-style-type: none"><li>• TOIL is a working arrangement, within which managers are allowed to take time off in compensation for hours worked beyond the normally recognised working day (dependent upon their role/contract).</li><li>• It is intended to ensure that when managers attend work events extend beyond their normal working hours, this time can be taken back.</li><li>• The agreement aims to ensure that Colleges develop policy and procedure for TOIL which is inclusive and reflects the terms set out in a fair and consistent way for all managers employed in FE.</li></ul>
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	<ul style="list-style-type: none"> <li>It could also allow for managers to respond to domestic events in their personal lives</li> </ul>
<b>What additional research, data or consultation is required to fill any gaps in understanding the effects of the agreement?</b>	The WNCFE Committee will review the agreement every three years. Further consultation will take place to inform any developments of the agreement.

## 2 Assessment of impact and strengthening agreement

This section asks you to assess the impact of the agreement on each of the protected groups.

**Using the information available, identify the effects on this agreement on the following groups**

Please indicate impact						
	+ive impact Y/N	-ive impact Y/N	No impact Y/N	How the group affected and what is the evidence?	How could you limit the negative impact	How can you promote positive impact <sup>1</sup>
<b>Age</b> <i>Identify the impact/potential impact of the service on older people and younger people.</i>	Y	N	N	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent	No negative impact identified	The agreement sets out the requirement that colleges will ensure their TOIL policy for managers is brought to the attention of all managers and staff and is well publicised. It also commits to ensuring that all managers receive appropriate training on the implementation of this policy.

<sup>1</sup> What measures does the agreement include to help advance equality, eliminate discrimination and promote good relations?

				approach to TOIL arrangements for managers of <b>all ages</b> .		
<b>Disability</b> <i>Identify the impact/potential impact on disabled people (ensure consideration of a range of impairments, e.g. physical, sensory impairments, learning disabilities, long-term illness).</i>	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL arrangements for managers and supports those with a <b>disability or associated disability</b> (such as caring responsibilities)	No negative impact identified	As above
<b>Gender Reassignment (GR)</b> <i>Identify the impact/potential impact of the service on transgender people.</i>	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL	No negative impact identified	As above

				arrangements for managers of who have undertaken, are contemplating or are in the process of <b>gender reassignment</b> .		
<b>Marriage and civil partnership (M&amp;CP)</b> <i>Identify the impact on married people or people in civil partnerships</i>	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL arrangements for managers who are in a <b>marriage or civil partnership</b> .	No negative impact identified	As above
<b>Pregnancy and maternity (P&amp;M)</b> <i>Identify the impact/potential impact of the service on pregnant people or women on maternity leave.</i>	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL arrangements for managers	No negative impact identified	As above

				who are <b>pregnant or taking maternity leave.</b>		
<b>Race</b> <i>Identify the impact/potential impact of the service on Black and minority ethnic (BME) people.</i>	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL arrangements for managers of <b>all race.</b>	No negative impact identified	As above
<b>Religion / Belief</b> <i>Identify the impact/potential impact of the service on people of different religious and faith groups.</i>	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL arrangements for managers	No negative impact identified	As above

				<b>of all religious beliefs, beliefs or non-beliefs.</b>		
<b>Sex</b> <i>Identify the impact on Men, women, boys ,girls</i>	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL arrangements all <b>male and female</b> managers.	No negative impact identified	As above
<b>Sexual Orientation (SO)</b> <i>Identify the impact on gay, lesbian and bisexual people</i>	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment of colleges to enable managers take time off in compensation for hours worked beyond the normally recognised working day. This supports work-life balance by enabling managers to respond to domestic, family or caring events in their personal lives. This agreement aims to provide a fair and consistent approach to TOIL arrangements for managers of <b>regardless of their sexual orientation.</b>	No negative impact identified	As above

<b>Other</b> (additional impacts such as Welsh Language poverty, people living in rural areas )	<b>Y</b>	<b>N</b>	<b>N</b>	The agreement sets out the commitment for inclusivity and is applied fairly to all staff. There is a requirement for colleges to consider the requirements under their Welsh Language Scheme concerning any policy development.	No negative impact identified.	WNCFE will make arrangements for the agreement to be made available, on request in a range of formats including, large Braille, cassette tape, disk, CD Rom. The agreement will be translated into Welsh (see action plan)
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### 3. Justification

<b>If no action is taken to remove or mitigate/negative./adverse impact please justify why</b>	N/A
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### 4. Procurement

<p><b>Does this agreement apply to external contractors? If yes, please set out what steps you will take to build into all stages of the procurement process the requirement to consider the equality duty.</b></p> <p>You will need to think about:</p> <ul style="list-style-type: none"> <li>• tendering and specifications</li> <li>• awards process</li> <li>• contract clauses</li> <li>• performance measures, and monitoring and performance measures.</li> </ul>	No
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## 5. Monitoring, Evaluating and Reviewing

<p><b>How will you monitor the impact and effectiveness of the new agreement?</b> This could include adaptations or extensions to current monitoring systems, relevant timeframes and a commitment to carry out an EIA review once the agreement has been in place for one year. List details of any follow-up work that will be undertaken in relation to the agreement (e.g. survey, specific monitoring process etc).</p>	<p>It is the responsibility of Colleges to monitor and review policies developed to give effect to this national agreement. The reviewed every three years by the Wales Negotiating Committee Further Education. Should an issue be raised by a College or a Trade union which would require an earlier review of the agreement this will be undertaken.</p>
<p><b>Give details of how the results of the impact assessment will be published, including consultation results and monitoring information if applicable.</b></p>	<p>The Joint Agreement and the Equality Impact Assessment will be published on the ColegauCymru internet pages and will include details of the arrangements for monitoring.</p>

## 6. Action Plan

The below provides an opportunity to state how any negative impact will be mitigated. It also allows us to list how we will tackle any gaps in the agreement. Look back through steps 1 – 7 of the EIA and include any identified actions in the plan below. Ensure that each action is listed with a target date and assigned to a named member of the committee.

Action	Responsible Person	By When	Progress
ColegauCymru to dedicated page for WNCFE in order to upload documents for public access.	CEO - ColegauCymru	In place	Completed
Publish summary of EIA <sup>2</sup>	CEO - ColegauCymru	30 Nov 17	
Welsh translation of the agreement	CEO - ColegauCymru	30 Nov 17	
Made arrangements for the agreement to be provided, on request, in different formats including, large Braille, cassette tape, disk, CD Rom.	CEO - ColegauCymru	30 Nov 17	

<sup>2</sup> summaries of EIAs where there is substantial impact will need to be published



**7– Sign-Off**

**The final stage of the EIA is to formally sign off the document as being a complete, rigorous and robust assessment**

The policy has been fully assessed in relation to its potential effects on equality and all relevant concerns have been addressed.

**The Assessment Team members will comprise of the Drafting Group**

Name	Job Title	Organisation