



North Essex Multi-Academy Trust

Time Off in Lieu Policy

**Trust Board Finance and
HR Committee**

Ratified by Governors: 28 November 2017

Staff were consulted on The Pay Policy
and it was accepted by the Trust Board
on:

28 November 2017

Time Off In Lieu Policy and Procedure

1. Introduction

This Procedure sets out the obligations and entitlements of employees who have been authorised by the Trust to take time off in lieu of payment for hours worked in addition to their normal contractual working hours.

2. Policy Outcomes

The aims of the policy are to:

- Support employees and managers to achieve a balance between work life balance and service delivery
- Set out the parameters of the policy
- Set out the obligations on managers and employees.

3. Definitions

Contractual hours: These are the weekly hours that are specified in an employee's contract and which must be worked prior to any TOIL being accumulated.

A day's annual leave: For calculation purposes, a full day's annual leave for full-time staff will count as one fifth of the 37 hour working week. For part time staff a day will be calculated on a pro-rata basis or according to their actual normal daily working hours as appropriate.

TOIL: This is time off in lieu for preapproved work undertaken in excess of the normal contractual working hours.

Paid overtime: This is payment for preapproved additional hours worked in excess of the normal contractual working hours.

4. The Law

The Working Time Regulations 1998 and the Working Time (Amendment) Regulations 2003, which implement the European Working Time Directive in to law, govern the hours most workers can work.

The regulations set:

- Limits on the average working week.
- Statutory entitlement to paid leave for most workers.
- Minimum rest break entitlements.

5. Abuse of the scheme

Any employee who abuses the scheme will be required to work fixed hours. Disciplinary action may also be taken in line with the Trust's Disciplinary Procedure.

6. Working hours

Standard full time working hours are 37 hours per week for salary calculation purposes. Part time staff are paid at a pro rata rate to 37 hours per week.

The over-riding consideration in determining the arrangement for working additional hours is the need to provide effective, responsive and flexible services which meet the schools' needs. Some areas of work may require employees to be available either at home or at their place of work to be called on if required to deal with emergency or unusual situations.

7. Scheme rules

- TOIL may be accrued for additional hours worked between 7am and 10pm, seven days a week.
- Working hours are normally between 08:00 -16:00 Monday – Thursday and 08:00 -15:30 on Friday, which allows for up to 30 minutes for lunch. Any working hours differing from this, including hours for part time staff, should be agreed with the employee's line manager.
- TOIL may only be accrued after contractual hours have been worked.
- Additional hours worked will only qualify for TOIL if they have been agreed in advance with managers who have discretion to agree arrangements that are appropriate for the particular role/department and are trusted to use their professional judgement and discretion.
- Managers must ensure that they use their discretion and judgement in line with the general principles adopted within the Trust for the purposes of equal and fair treatment of all staff.
- The Trust reserves the right not to agree to TOIL for hours that have not been agreed or are not evidenced in this way.
- A maximum of three weeks of TOIL per leave year (1 September- 31 August) may be taken (based on standard fulltime working – pro rata for part time staff). Therefore, employees should not normally be more than 111 hours 'in credit' at any time, unless exceptional circumstances apply and prior agreement to exceed this figure has been obtained from their manager.
- Additional hours worked cannot be carried over in to the next annual leave year.
- Employees are required to keep accurate records of additional hours worked on the TOIL sheet (Appendix A). Managers are responsible for maintaining suitable monitoring arrangements.
- Managers must review TOIL sheet hours on a monthly basis to ensure that the limits outlined above are not exceeded.
- Abuse of the scheme will be dealt with under the Trust's Disciplinary Procedure.
- Accrual of TOIL must not result in an employee working more than an average of 48hrs per week over a 17 week period. Any employee working over 6 hours in one stretch, should take an unpaid break of at least 20 minutes.

Please note that additional hours worked as part of an employee's normal day to day duties do not qualify for TOIL unless previously agreed by the Line Manager.

It is expected that staff raise with their manager if they are unable to undertake all elements of their role in their regular working hours.

Managers are expected to support employees to manage down excessive additional hours worked. If necessary this may be undertaken as part of the performance management process.

8. Procedure to be followed when managing TOIL

8.1 Roles & Responsibilities

Managers are responsible for:

- Ensuring that staff are aware of the TOIL policy where this has been agreed.
- Ensuring that the scheme is applied in a fair and consistent manner.

- Ensuring that employees are not working in excess of the limits as set out in the policy.
- Managing any deviation from the scheme rules.
- Supporting staff members who are struggling with their regular working hours, if necessary via the performance management process.
- Passing authorised TOIL sheets to HR on a monthly basis.

Employees are responsible for:

- Complying with the scheme rules.
- Submitting monthly TOIL sheets to their line manager (Appendix A).
- Submitting TOIL leave requests (Appendix B) in the appropriate manner. These will be authorised in line with the Trust's Leave of Absence Policy.
- Managing their time to comply with the scheme rules.
- Raising with their manager if they require support in managing their regular hours.

The Payroll and HR Manager is responsible for:

- Advising on policy application and monitoring implementation.
- Supporting managers as part of the performance management process

8.2 How to monitor additional hours worked

Employees are required to keep accurate records of the additional hours they work.

The employee will be provided with a copy of the TOIL spreadsheet (Appendix A) for time recording purposes to enable them to do this.

Managers must check the time sheets on a monthly basis to review TOIL levels.

Where there are inaccuracies the manager must address these with the employee.

HR will monitor TOIL leave requests to ensure that leave allocation is not exceeded.

8.3 How to manage abuse of the scheme

All TOIL must be considered by the manager in line with operational requirements.

Where TOIL has been approved for specific roles, Managers must ensure that staff are familiar with the rules of the scheme by issuing them with a copy of the policy as part of the line manager's element of the induction process.

Managers must check TOIL sheets on a monthly basis to ensure that staff are complying with the rules of the scheme. If an employee is not complying with the rules of the scheme the manager should seek advice from HR and a decision will be made with support from HR, whether this matter should be treated as a conduct matter.

8.4 How to consider requests for TOIL

All TOIL requests will be considered by managers in line with operational requirements. Managers may wish to take account of the following in considering a request:

- Length of notice of intention to take TOIL, which should be in line with the Trust's Leave of Absence Policy. See 8.5 How to book TOIL.
- Length of TOIL request
- Office cover and wider operational requirements
- Personal circumstances of the employee
- Parity across the Trust in the application of this process

If managers are unable to agree to requests they should discuss the reasons for this with the employee, ideally face to face.

8.5 How to book TOIL

TOIL can be requested by completing a Request for Leave of Absence form. Employees should indicate that they are requesting TOIL as opposed to annual leave. In line with the Trust's Leave of Absence Policy employees should request leave of absence with as much notice as possible, and in any case in accordance with following timescales.

Length of leave of absence requested	Minimum notice required
Up to 5 days	1 week
5 days and over	1 month

In certain circumstances eg in the event of an emergency, it may not be possible for the employee to request the leave of absence, in writing, in advance.

In these circumstances the employee should telephone the Line Manager to discuss the reasons for the request of leave of absence. They should also telephone the Staff Absence Line.

An initial decision whether leave of absence is granted to cover the initial emergency situation will be made and notified verbally to the employee. A written record of the details of the request for leave of absence and the decision regarding the granting of any leave of absence will be made. The record will be signed by the employee on their return to work.

Completed Request for Leave of Absence forms should be passed to the line manager for authorisation and then to the Finance and Operations Manager for counter signature, prior to being recorded by HR. The employee will be advised whether their request to take TOIL has been approved.