

Worcestershire Acute Hospitals Trust Additional Employment Policy

Trust Policy



Worcestershire
Acute Hospitals
NHS Trust

Department/Service	Human Resources	
Accountable Director	Chief People Officer	
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Target Organisation	Worcestershire Acute Hospitals Trust	

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What this policy covers

This policy provides guidance on how additional employment, including self-employment, can be undertaken while you are a Worcestershire Acute Hospitals Trust (WAHT) employee.

It is designed to ensure that you can maintain a high-quality professional service when working for WAHT, while being able to take on other work without it impacting negatively on your role here.

This policy will also help to prevent you or WAHT contravening legislation on working time, including the total hours worked, breaks between work periods and annual leave **Appendix 1 &2**.

In most situations, it is accepted that additional employment will not constitute a conflict of interest in relation to your work for WAHT. However, to avoid any doubt, it is important that there is total transparency about these arrangements, so there is no appearance or accusation of such a conflict.

While WAHT recognises that for career progression or financial reasons you may wish to undertake additional employment, it has a duty to ensure that you do not engage in other paid or unpaid work that may conflict with the interests of or affect your performance or attendance under your contract of employment with WAHT.

Some employees will have contracts of employment detailing more specific provisions about additional. In such cases, these will apply in addition to this policy's provisions.

Medical employees should also refer to the terms and conditions set out in the Specialty Doctor and Medical & Dental Terms & conditions of service and the Code of Conduct for Private Practice.

Definitions

Additional employment:

- any additional employment within WAHT over and above your contracted hours (this will include any additional plain time hours for part time colleagues and overtime for full time colleagues)
- external bank, locum or agency work
- paid employment internally and externally WAHT including on-call service provision to other services/ other providers
- work you may undertake as a self-employed person
- work through a private company
- private practice
- reservist occupations (excludes leave for training which is managed via the Trust's Leave and Pay Policy)
- voluntary work which may impact on your work at WAHT

Responsibilities

Employees

- All employees including medical and dental must adhere to the terms of this policy. Failure to comply, or ignoring the refusal of a request, may result in disciplinary action under the WAHT Disciplinary Policy.
- Prior to accepting any additional work completing the Request to Undertake Additional Employment Form in **(Appendix 3)** and agreeing this with their line manager.
- Completing a new Request to Undertake Additional Employment Form if the detail of additional employment changes at any time.
- Adhering to the Working Time Directive **(Appendix 1)** and taking responsibility for their own health and safety and that of others, including patients.
- If they have additional employment and regularly work more than 48 combined hours per week, they must sign a Working Time Regulations “opt-out” form **(Appendix 1)**.
- Ensuring that they are not placed in a position which risks conflict between any private interests and NHS duties within the Trust.
- Declaring any conflict of interest to the Trust (see Standards of Business Conduct – Incorporating Hospitality, Gifts and Sponsorship Policy).
- **Where you are undertaking additional employment, it is your responsibility to ensure that your performance in your primary post is not affected.**

Managers

- Applying this policy fairly and equally to ensure consistency of application.
- Ensuring employees are made aware of this policy, notification processes and that records are maintained.
- On receipt of a Request to Undertake Additional Employment Form, meeting with the employee to discuss the application if required.
- Before granting permission to undertake additional employment considering:
 - Potential conflicts of interest
 - The Working Time Directive **(Appendix 1)**
 - Employee’s attendance and performance in their current role and the potential impact that the additional employment may have on attendance and performance.
- During the recruitment process, establish if candidates intend to continue with any additional employment both inside and outside of the Trust.
- Discussing with the candidate the nature of the additional employment and consider the following points before permitting the additional work considering:
 - Potential conflicts of interest
 - The Working Time Directive **(Appendix 1)**

Seeking advice from the Human Resources Department and/ or the Company Secretary before a formal job offer is made as required.

Chief Medical Officer

The Medical Director is responsible for ensuring time spent on private practice by medical staff is reviewed each year as part of the job-planning process to ensure it is being undertaken either outside of NHS paid time or the equivalent time is paid back to the NHS.

HR Department

The HR Department are required to provide advice on the implementation of the policy and working time regulations.

Company Secretary

- Details of any potential conflict of interest (new and existing employees) must be forwarded to the Company Secretary to be held on the Trust Register of Interests.
- The Company Secretary would also be able to advise on whether a declaration of interest needed to be made in line with the Standards of Business Conduct – Incorporating Hospitality, Gifts and Sponsorship Policy.

Policy in practice

Conditions

You are permitted to undertake additional work, providing WAHT is satisfied that this does not conflict with:

- national terms of conditions of employment and/or your own contract of employment
- the reputation of WAHT, or bring WAHT into disrepute
- your performance in your WAHT role
- your wellbeing and levels of sickness absence.

Notification of additional employment Pre employment

Those offered jobs with WAHT will be asked to disclose any additional employment they intend to continue after starting employment with WAHT, using the Additional Employment Notification form.

If an additional employment declaration is not acceptable as per the conditions listed above and the appointee wishes to continue with their conditional offer of employment, they must confirm in writing they will have ceased their additional employment prior to taking up employment with WAHT.

During employment

If you are considering taking up additional employment, including bank, locum and agency work, you must declare your intention by completing the Additional Employment Notification form (**Appendix 3**).

On receipt of the form, your manager will meet with you to discuss the additional employment and potential impact on your current primary job, paying particular attention to performance and attendance. Having considered all the factors, they will decide whether the additional employment would be detrimental or not.

The Additional Employment Notification form should be completed, stating the manager's decision and retained on your personal file.

Withdrawing permission

Where the total hours worked and/or the impact of the additional employment gives cause for concern about the employee's ability to effectively perform their normal duties, the line manager should arrange to meet with the employee to discuss the options available to them. Additional hours worked within WAHT (including NHSP) are monitored using the e-roster.

There may be circumstances where it is necessary for the Trust to retract any permission given for an employee to undertake additional employment. Such a retraction will only be done after discussion with the employee. Examples of these are outlined below.

- **Attendance / Timekeeping:** Where attendance or timekeeping is of concern, and it is considered that this may be attributable to additional employment.
- **Capability / Performance / Conduct:** Managers must monitor the performance of their teams. If performance falls below acceptable standards and the Performance Management Policy and Procedure/ Conduct, Capability, Ill Health and Appeals Policies and Procedures for Medical and Dental Staff has been invoked and the additional employment is deemed to be contributing to the poor performance a review of the arrangements should be undertaken. It is the employee's responsibility to ensure that their performance in their primary post is not affected. Where additional employment is with the Trust this should be reviewed, and a decision taken as to whether it continues. Where the additional employment is outside the Trust the employee may be asked to consider reducing their hours or ceasing the additional employment to protect their primary post. If an employee is subject to a disciplinary process due to a conduct issue in either their primary or additional employment, they are obligated to declare this to the Trust and a decision may need to be made regarding both roles, further advice should be sought from the HR Department in this instance.
- **Rise of a conflict of interest:** There may be times where a new conflict of interest arises that did not previously exist when a new employee was appointed or when permission was given by the Trust for an employee to undertake additional employment. Employees have a responsibility to highlight any new potential conflicts of interest that arise or may arise with their manager. The manager must assess the risk of the potential conflict of interest and whether any reasonable adjustment can be put in place to prevent a conflict of interest (i.e. removing an employee from a certain project etc). If this cannot be avoided and the risk to the Trust and service delivery is too high, permission to undertake additional employment may be retracted.

Appeal

The employee has the right to appeal the decision to retract the permission to undertake Additional Employment. Any appeal should be made in writing within 14 calendar days of receipt of notification of the decision to their line manager. An appeal will be conducted in accordance with the appeal stage of the Trust's Grievance policy.

Medical and Dental Staff

Doctors and dentists must also adhere to the conditions set out in their terms and conditions of employment and the Department of Health Code of Conduct for Private Practice link with regard to private practice and fee-paying services.

Doctors and dentists may undertake private practice or work for outside agencies, providing they have declared it and they do not do so within WAHT contracted time.

Sickness

Working whilst off sick

You must inform your manager, who will seek guidance from Human Resources and Occupational Health regarding the prospect of you continuing any additional employment where you are unfit for WAHT work.

Employees would normally be required to refrain from their additional employment if they are on sick leave from the Trust and the additional work (whether for the NHS, independent sector or any other party) is of:

- The same nature
- A similar nature; or
- Where attending their additional employment could be detrimental to their recovery.

This includes any work during “out of hours” periods, for example weekends and evenings after a period of sick leave, and before return to work with the Trust, unless a GP Fit Note states otherwise and the employee has received the permission from their line manager at the Trust.

It is not normally permitted to work while off sick or in receipt of Statutory Sick Pay. An employee who continues to work in an additional job and/or wishes to work in a paid, unpaid or voluntary capacity while off sick, for therapeutic reasons or to aid recovery must seek authorisation from their line manager in advance on each occasion.

An employee who works for other employers whilst off sick from the Trust without authorisation from their line manager or who is suspected of falsely claiming to be sick may be referred to the Trust’s Counter Fraud Service for investigation. This may lead to both criminal and disciplinary proceedings, and the Trust may also have responsibilities to refer such details to employees’ professional regulatory bodies. Therefore, this may be regarded as fraud and/or a disciplinary matter and be managed in accordance with the Trust’s Disciplinary Policy, which may result in disciplinary action up to and including dismissal.

Employees must not undertake paid employment during sick leave unless the Trust has given formal permission that the alternative work requested is reasonable and may assist rehabilitation. Misrepresentation of health status or a deliberate misuse of the provisions for sick leave and sick pay will be regarded as misconduct and dealt with as a disciplinary issue; it may also be referred for investigation by the Local Counter Fraud Specialist.

However, if you have two different types of work that enables you to work in one post while sick in another, you will not be entitled to Statutory Sick Pay, but you may be eligible to receive Occupational Sick Pay for the post you are unable to perform, if approved by the Occupational Health Department.

Unpaid Work Whilst off Sick

If employees wish to continue with voluntary / unpaid work whilst off sick, they must request permission in writing from their manager at the Trust. They should outline in the request the nature of the work they wish to undertake, the number of hours they intend to work and confirm that no payment will be received for this work (excluding expenses). The line manager must seek advice from the Human Resources Department in this situation and advice from Occupational Health may also be beneficial. Permission may be granted based on the fact that it may be beneficial to the employee's recovery and well-being to undertake the voluntary / unpaid work.

Trust Equipment and Resources

Employees may be provided with Trust equipment and resources to carry out their duties in line with their employment with the Trust. Employees should not use this equipment and resources for work undertaken outside of the Trust.

Declaration of Interests

All staff must declare any interest, either on appointment or when the interest is acquired, which may directly or indirectly give rise to an actual or potential conflict of interest or duty. All consultants must declare interests before employment commences with the Trust and annually thereafter. This will be undertaken through the pre-employment paperwork required to be completed and returned to the HR Department. The HR Department will forward the declarations of interest to the Company Secretary.

For further information on declaring interests please refer to the Standards of business Conduct – Incorporating Hospitality, Gifts and Sponsorship Policy.

Failure to comply

Failure to comply with the additional employment policy may result in disciplinary action being taken up to and including dismissal. Non-compliance in specific circumstances could also be construed as fraudulent activity which may be investigated by the Local Counter Fraud Service and could result in criminal prosecution.

The Trust may audit for compliance with this policy at any time and will investigate in relation to alleged breaches or may ask Counter Fraud to undertake investigations where appropriate.

All employees are required to declare and review at their annual Personal Development Review (PDR) any additional employment which they may have

Appendix 1 Guide to working Time Directive/Working Time Regulations

Guide to working Time Directive/Working Time Regulations

Purpose

The Working Time Directive is in place to promote health and safety in the workplace. In order for Worcester Acute NHS Trust to ensure patient safety and maintain high quality services it is critical that employees have regular rest periods. All employees have an obligation to ensure that they are fit and well to attend work and regular rest periods is a mechanism in place to support this.

The Maximum Working Week

Employees should not work more than a 48 hour week in total (including overtime). This includes work with Worcestershire Acute NHS Trust and any other additional work; whether for the NHS, independent sector or any other party.

Opting out of the 48 hour week

Employees can opt out of the 48 hour working week limit by completing an opt out form with their employer (or employers) (**See Appendix 2**).

What counts as work?

As well as carrying out normal duties, a working week includes

- job-related training
- job-related travelling time
- working lunches, for example business lunches
- paid and some unpaid overtime
- time spent on-call at the workplace

What does not count as work?

A working week does not include:

- breaks when no work is done, such as lunch breaks
- normal travel to and from work
- time on call away from the workplace
- evening and day-release classes not related to work
- travelling outside of normal working hours
- voluntary overtime, for example, staying late to finish something off
- paid or unpaid holiday

Rest Breaks

Trust employees are expected to adhere to rest breaks and should not put themselves in a position where rest breaks cannot be accommodated due to additional employment.

Failure to adhere to rest breaks could be considered as misconduct and warrant disciplinary action if it is felt to compromise patient safety or service delivery. It may be considered to be a breach of the contract of employment and/or a breach of a professional code of conduct (e.g. The Code).

Rest breaks during the working day

Employees are expected to have at least a 20 minute unpaid rest break in any working day over 6 hours.

The requirements are:

- the break must be in one block
- it cannot be taken off one end of the working day - it must be somewhere in the middle

Daily Rest between working days

Employees are expected to have a break of at least 11 consecutive hours in every working day or 24 hours. This means, if employees finish work at 8.00 pm on Monday they should not start work until 7.00 am on Tuesday.

Weekly Rest

Employees are expected to adhere to the following:

- an uninterrupted break of 24 hours clear of work each week or
- an uninterrupted break of 48 hours clear each fortnight

Special rules for 16 and 17 year olds

By law, workers aged 16 or 17 must not work more than 8 hours a day and 40 hours a week. They must also have as a minimum:

- to have a break of at least 30 minutes if the working day is more than 4.5 hours
- to have at least 12 consecutive hours off between each working day
- to have at least two whole days off every week

Further advice from HR should be sort on night working for employees aged 16 or 17 due to the restrictions involved.

Night Work

All employees who work nights are entitled to a free health assessment before they start night work.

Are there any exclusions?

- Doctors in training are excluded from these Regulations.
- Individual employees may choose to work more than an average of 48 hours per week but will need to sign an opt out form if they want to do this (**Appendix 2**).
- It has been agreed nationally that career grade doctors are exempt from the rules on the length of night work, and on the rest between working days and weeks, and the rest within the working day. As soon as possible afterwards, an equivalent period of rest must be given instead. Under this agreement the averaging period has been extended from 17 weeks to 26 weeks for career grade doctors. Career grade doctors are consultants, associate specialists, staff grades, clinical assistants, hospitals practitioners and locums on those grades.
- *Employers and Trade Union (Staff Side) representatives can make collective agreements which vary from the Regulations on the length of night work, and on the rest between working days and weeks, and the rest within the working day, so long as compensatory rest breaks are given. If your current pattern of work does not comply with the Regulations, your manager will want to talk to you and your Trade Union representatives about this.
- Security employees are exempt from the hourly limits placed upon regular “night workers”
- Unforeseeable emergencies: The Regulations do not have to be kept to in such circumstances, but if you missed any rest you should be given it later on.

What you need to do

Having read this summary guidance, if you wish, on a voluntary basis, to be able to work an average of up to and beyond 48 hours per week you will need to sign the declaration and return it to your manager. If you have more than one job, the 48 hour limit applies to the total hours you work. You should therefore make sure that your manager knows if you have any employment/paid work other than your job for the Trust. This includes any irregular bank or agency work you might do.

The Regulations are designed to protect your health and safety and, if you do have other work, you should make sure you still have your day off each week and your 10 hours off between working days. You should make sure that you take your break during the working day as it is not allowed to take the daily rest break at the beginning or end of the day. Keep a copy of these notes in case your circumstances change in the future. If you want to start working more than an average of 48 hours a week, you will need to sign the declaration then.

Further information

The working time regulations are complex. This is a summary and not a complete guide. Further information can be found at www.direct.gov.uk.

Appendix 2 Working Time Regulations Opt Out Form

Working Time Regulations Opt Out Form

Individual Agreement to Opt Out of the 48 hours Average Weekly Limit

Under the provisions of the Working Time Regulations 1998, if you wish to work more than 48 hours per week you are required to sign an individual agreement to do so. This is often referred to as an 'opt out' agreement. The purpose of the regulations is to protect your rights and prevent employers from insisting that their employees work long hours. The Trust is committed to the wellbeing of all its employees, but recognises that some may wish to work in excess of the statutory 48 hours 'working week' limit.

The purpose of this form is therefore to allow employees who wish to do so, the opportunity to give their written consent to working in excess of the 48 hours working week limit. The 48 hours incorporates all employment, for the Trust and additional employment outside of the Trust. Please be advised that the Working Time Regulations dictate an absolute maximum number of working hours during any week of 78 (as a total of ALL employment/paid work).

Therefore, after reading the accompanying Guide to the Working Time Directive (**Appendix 1**), if you chose to complete this form, please sign and date the form and return it to your line manager. By signing this form and giving your agreement that you may work for more than an average of 48 hours a week, this will apply until such a time that you terminate this arrangement. The Trust will require **3 months' notice** if you wish to cancel this arrangement. The decision to opt out of the 48 hour working week, or to give notice to bring such an agreement to an end is one for each individual to make and for the avoidance of any doubt, employees will not be subjected to any detriment.

Employee Declaration

Other than the job(s) for which I hold a contract with the Trust, any other paid work/employment I undertake is listed in the table below:

Employer	Job Title	Type of Work (including bank or agency work)	Contracted Hours	Dates of work

I wish, on a voluntary basis, to be able to work an average of up to **and** beyond 48 hours per week (including ALL paid employment/work, with the average calculated over 26 weeks, including days/nights off).

Regardless of whether I have signed this declaration, I understand that, if I do not inform my line manager of other paid work/employment that I do now or obtain in the future then I may be in breach of the Trust's Additional Employment Policy and Standards of Business Conduct Policy.

I agree to the above and confirm the accuracy to my best knowledge

Signed

Dated: / /

Name:

Department:

Copy to be retained by Line Manager in the employee's personal file and a copy sent to HR Advisory Services Team.

Appendix 3 Request to Undertake Additional Employment

Request to Undertake Additional Employment

Please complete in full and pass to your Line Manager/Clinical Manager. The form will be retained on your personal file by your line manager.

Name:	Contact Number:
Job Title:	Band / Grade:
Directorate:	Division:
Hours of Work and Pattern:	Days Worked:

Additional Employment Information - *For completion by the employee*

New or Amended Request: <i>(Please circle appropriate request)</i>	New /Amended
Name & Address of Employer / Organisation:	
Line Manager	Contact Number
Nature of Work: (Brief Description of Duties and Responsibilities)	
Hours of work, including pattern and days	

Have you any reason to believe that there will be instances where your Additional Employment will conflict with your primary job at the Trust?

(Conflict in this instance is taken to mean a conflict in time and a conflict where the performance of your duties at the Trust may be affected)

Please circle as appropriate

YES

NO

If yes please give details:

Dates of Additional Employment

Start Date: ____ / ____ / ____ End Date: ____ / ____ / ____

Employee's Declaration

I confirm that I have read the Trust's Additional Employment Policy and understand my responsibilities within it.

I state that the information provided is correct and that Additional Employment in this instance will not have a detrimental effect on my primary work at the Trust. I will inform my line manager if there are any changes to the above. I understand that false information given with regard to this policy could be treated as Gross Misconduct or fraudulent and dealt with accordingly under the Disciplinary and Counter Fraud Policies.

Signed by Employee: _____ Date: ____ / ____ / ____

Print Name: _____

For Completion by Line Manager

Name of Line Manager:	Job Title:
Date Received:	Date discussed with Employee:
Decision <i>(please tick as appropriate)</i>	

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Request approved ☐

Request rejected ☐

Date employee informed:

Comments/Rationale for decision

Signed by Manager: _____ Date: ____/____/____

Print Name: _____