

## **Additional Employment Policy**

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# Lincolnshire Community Health Services NHS Trust

## Additional Employment Policy

### Version Control Sheet

Version	Section/ Para/ Appendix	Version/Description of Amendments	Date	Author/ Amended by
1		New policy	May 2010	D Lilley
1.1	Whole Document	Policy realigned following implementation of the Transforming Community Services agenda and new legal entity	March 2011	Rachael Ellis-Ingamells
1.2	Whole Document	Policy reviewed	October 2012	Rachel Madge
2	Whole document	Policy reviewed	October 2014	Melanie O'Brien
3	Whole document	Policy Review	September 2016	Lyndsey Clapham
4	Whole document	Policy Review	December 2018	Annette Sadler
4.1	Section 2.2	Inclusion of Private Practice section taken from P_HR_50 Code of Conduct for Private Practice Policy (archived)	August 2019	Annette Sadler
5	Whole document	Policy Review	February 2021	Georgia Travis

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# Lincolnshire Community Health Services NHS Trust Additional Employment Policy

## Policy Statement

<b>Background</b>	<p>This policy has been developed in order to clarify the Trust's position towards employees undertaking additional employment and to confirm the arrangements to be adopted in order to safeguard the safe delivery of patient service, to protect the well-being of staff and to ensure the compliance with the requirements of the Working Time Regulations.</p>
<b>Statement</b>	<p>The Trust recognises that in some instances employees may wish to carry out additional employment during their career with the organisation and as such does not wish to unreasonably restrict any individuals from undertaking additional employment. Equally, it is accepted that with the variety of working patterns available across the Trust, it is possible that our Trust may not always be an individual's primary employer. However any employment (or private practice) whether voluntary or paid, outside of the Trust, should not conflict with an employee's duties to the Trust and should not have a detrimental impact on individual performance or that of the work team.</p> <p>Within the recruitment process and during their employment, individuals are required to declare details of any changes to any additional employment/private practice, and any ongoing changes.</p>
<b>Responsibilities</b>	<p>Managers are responsible for completing the necessary paperwork and risk assessments and forwarding it to the appropriate departments. They should also continue to monitor the situation as a minimum at the annual appraisal.</p> <p>The HR team will file the requests and risk assessments on the individual's personal file and HR Advisors will attend any meetings to support the manager and advise on the application of the policy where appropriate.</p>
<b>Training</b>	<p>Development for manager's awareness of the policy.</p>
<b>Dissemination</b>	<p>Lincolnshire Community Health Services NHS Trust's website</p>
<b>Resource implication</b>	<p>Additional work involved for the HR department</p>

# Lincolnshire Community Health Services NHS Trust

## Additional Employment Policy

### Contents

<b>i.</b>	<b>Version control sheet</b>	
<b>ii.</b>	<b>Policy statement</b>	
1.	Introduction .....	5
2	Trust's Responsibilities .....	5
2.2	Responsibilities of Applicants/Employees .....	5
2.3	Manager's Responsibilities .....	8
3.	Monitoring and Review .....	10

# Lincolnshire Community Health Services NHS Trust

## Additional Employment Policy

### 1. Introduction

1.1 The key objectives of this policy are to:

- Safeguard the interests of the Trust and ensure quality of patient care;
- Minimise health and safety risks to employees;
- Ensure compliance with the Working Time regulations;
- Minimise conflict between employee's normal duties and those carried out within an additional employment/private practice arrangement.

1.2 This policy is applicable to any work paid or otherwise undertaken by employees at this Trust or elsewhere. This includes full-time and part-time staff, external employment with an alternative employer, voluntary employment, paid or unpaid, employment on a self-employed/private practice basis or internal employment such as a bank contract.

1.3 This policy aims to meet the requirements of the Equality Act 2010 and ensure that no employee receives less favourable treatment on the grounds of gender, sexual orientation, transgender, civil partnership/marital status, appearance, race, nationality, ethnic or national origins, religion/belief or no religion/belief, disability, age, carer, pregnancy or maternity, social status or trade union membership.

### 2 Trust's Responsibilities

2.1 The Trust will ensure the health and safety of staff by complying with the requirements of the Working Time Regulations and according to the employee's contract of employment.

#### 2.2 Responsibilities of Applicants/Employees

2.2.1 Within the recruitment process, individuals are required to declare details of any employment which they wish to continue or to commence in addition to applying for employment with the Trust.

2.2.2 During their employment individuals are required to inform their manager in writing of their wish to undertake additional employment in the following circumstances:

- prior to accepting any offer of additional employment external to the Trust
- prior to accepting any offer of additional employment internal to the Trust and including a bank assignment
- prior to embarking on any form of self-employment/private practice
- prior to embarking on any form of voluntary or unpaid employment.

2.2.3 This requirement is an expressed term contained within the Trust's contract of employment and associated terms and conditions. As such, employees and applicants must provide full details of the proposed employment and in

particular, details of the working hours and shift arrangements to be worked (see application form to undertake additional employment which is located on the Staff Intranet). Employees must also make the Trust aware if they are working privately in addition to working for the Trust.

- 2.2.4 Individuals must also formally notify the Trust in writing when they cease to undertake the additional employment or in circumstances where there have been changes in the arrangements of the additional employment e.g. amendments to the working hours/shift pattern.
- 2.2.5 In accordance with the Health and Safety at Work Act 1974, an employee must take reasonable care of their own health and are expected to co-operate with the Trust's managers in the identification of any risks caused by the additional employment.
- 2.2.6 Similarly, in accordance with the principles of the Working Time Regulations 1998, individuals are required to report any instances where pattern of work/hours of work within this Trust's employment and additional employment may constitute a health and safety risk to themselves, to patients, staff colleagues or the public e.g. overtiredness where there is an increased potential for making errors.
- 2.2.7 Where staff have more than one job, the combined hours should not exceed the weekly average of 48 hours. Individual members of staff have a responsibility to ensure that any work undertaken outside their main employment with the Trust does not adversely affect their ability to satisfactorily perform their work for the Trust, and staff should therefore notify their line manager in writing in advance if their combined working hours will exceed 48 hours per week. Failure to do so may lead to disciplinary action being taken against the employee (please refer to the Working Time Regulations guidance).
- 2.2.8 If an employee holds two concurrent posts within the Trust, it is expected that they have due regard to the needs of both posts and to treat them equally. If satisfactory performance is affected as a result of working in two posts, then both posts will be considered when reviewing performance and if appropriate, the capability procedure will be applied.
- 2.2.9 The employee must inform the Trust if they become subject to any disciplinary or other proceedings in their additional employment/private practice.
- 2.2.10 It is the obligation of the employee to state if they become ill when in additional employment to notify the main employer and if they are still able to attend additional employment.
- 2.2.11 It is recognised that there may be situations when an employee due to health reasons is unable to carry out their employment with the Trust, but to aid rehabilitation the individual may be capable of undertaking their additional employment, however such situations are viewed as exceptional and would rarely occur. Where employees have more than one job role a medical certificate is required to indicate that they are fit to work in one role whilst absent from the other. It is the employee's responsibility to ensure that medical certificates clearly state that whilst claiming statutory sick pay or during any periods of non-pay they are able to continue in a second role without impacting on their recovery, this must include secondary employment.

In such circumstances advice from Occupational Health would be obtained before any decision was taken on the management of the situation. Any employees that fail to provide this evidence or are considered to have falsified information may be subject to disciplinary action in accordance with the Trust's disciplinary policy and procedure. In all incidents of this kind the Local Counter Fraud Specialist will be informed and staff may be prosecuted.

2.2.12 It is an established principle that NHS bodies must be impartial and honest in the conduct of their business and, in order to ensure that strict ethical standards are maintained it is essential that conflict does not arise between the private interests of staff and their NHS duties.

The following set of key principles underpins the relationship between the Trust's employees, the Trust and private practice:

- The provision of service for private clients should not prejudice the interest of the Trust or disrupt the Trust's services;
- There should be no real or perceived conflict of interest between private work and Trust work;
- With the exception of the need to provide emergency care, Trust commitments should take precedence over private work where there is a conflict, or potential conflict, of interests;
- Except in emergencies, employees should not provide private client services that will involve the use of Trust staff or facilities, unless an undertaking and authority to pay for those facilities has been obtained from (or on behalf of) the client.

These standards apply to all employees of the Trust who undertake private practice:

- In Trust's facilities
- Privately or
- In independent facilities

All employees will declare in writing any business, professional interest, or other non-Trust work, which may directly or indirectly give rise to – or may reasonably be perceived to give rise to any conflict of interest, or which is otherwise relevant to the employee's proper performance of their contractual duties.

Employees should never schedule private commitments that would prevent them from being able to attend a Trust emergency whilst they are on call for the Trust.

The Trust will not authorise any employees to undertake private practice during the course of their NHS scheduled time or working week. Sessions for admin, research etc is NHS time and private practice should not be conducted during this time.

In the course of their Trust duties and responsibilities employees will not initiate discussion about providing private services or ask any other Trust staff to initiate such discussions on their behalf. Employees may only see clients privately within the Trust's facilities with the explicit written agreement of the Trust.

Employees should not use letterheads or business cards employing the Trust addresses, telephone, fax number or e-mail addresses or advertise their services using these.

Employees must ensure that they have appropriate indemnity cover for any private work they are undertaking, ensuring additional cover is taken out if required. LCHS will not provide indemnity for any employees undertaking private work.

Employees must not access LCHS data relating to private or potential private patients without gaining authorisations through IG/access to medical information procedures. If in any doubt, employees should raise the matter and request access via their senior manager. Non approved access to patient information for private work practices will be considered under the Your Behaviour Matters Disciplinary Policy.

Any breaches of the policy will be referred to the Local Counter Fraud Specialist for investigation into the clinician and any staff implicated in the fraudulent activity.

## **2.3 Manager's Responsibilities**

2.3.1 Managers are required to acknowledge receipt of a request received and give full consideration to an employee's written request to undertake additional employment. In response to such requests, managers must carry out a risk assessment. It is recommended as best practice that this is completed within 14 calendar days where possible in order to evaluate the potential impact the additional employment may have on the individual's job performance and on their health.

2.3.2 Applicants have a responsibility to declare any additional employment to the appointing manager. Appointing managers must carry out a risk assessment in order to evaluate the potential impact the additional employment may have on the applicant's job performance and on their health. Following the outcome of the risk assessment, the appointing manager must decide whether to continue with the appointment.

2.3.3 In carrying out this risk assessment, managers must take account of the provisions of the Working Time regulations, specifically:

- the employee's existing contracted working hours,
- the individual's current working pattern,
- the impact of the additional hours on the employee's existing role including breaks between shifts,
- pattern of overtime compared to the working hours of the additional employment,
- ensuring compliance with the working time regulations,
- any potential conflict of interest.

2.3.4 Managers must not unreasonably refuse requests (see management checklist for considering an application to undertake additional employment which is located on the Staff Intranet.

- 2.3.5 Where managers have authorised a request, they should confirm this authorisation to the individual in writing. Managers should also make arrangements to monitor the situation through an annual review as a minimum, ensuring that wherever possible, they identify any adverse effects or risks arising from the additional employment. It is recommended that the annual review be considered as part of the annual appraisal process.

Managers will review risk assessments with amendments documented accordingly. A copy of the application, letter of authorisation to employee and a copy of the risk assessment should be sent to the HR department via email to [lhnt.human-resources@nhs.net](mailto:lhnt.human-resources@nhs.net) to be placed on the employee's personal file.

- 2.3.6 If after having carried out the risk assessment, the manager has concerns with the proposed additional employment, then the manager should meet with the individual to discuss these areas of concern in order to try and identify a compromise and where appropriate agree specific conditions in respect of the proposed additional employment. The individual may be accompanied at this meeting by a union representative or staff colleague. If appropriate an HR representative may also attend the meeting to support the manager and advise on the application of the policy.
- 2.3.7 If it is not possible to agree a mutually acceptable arrangement then the manager will have no alternative but to refuse the request to undertake additional employment. The outcome of this meeting will be confirmed in writing. A copy of this letter will be retained by the manager for the individual's local management file and a copy should be forwarded to the HR department for filing on the individual's personal file together with a copy of the risk assessment form.

In circumstances where the employee's request has been declined the individual may appeal through the Trust's grievance and resolution procedure.

- 2.3.8 If a manager becomes concerned that any additional employment is having an adverse effect on the proper performance of the employee's duties at the Trust or on their work attendance levels, the matter will be dealt with through the Trust's Your Attendance Matters policy or Your Performance Matters policy. Through these policies the Trust has the right to revoke an agreement with the individual. However once a satisfactory level of performance and/or attendance has been achieved the agreement to undertake additional employment may be reinstated.
- 2.3.9 If it is discovered that an employee has undertaken additional employment without gaining the required authorisation the matter will be treated as a potential breach of contract. In such circumstances the matter will be investigated in accordance with the relevant policy and the individual may be subject to disciplinary action in accordance with the Trust's disciplinary policy and procedure. The matter may also be referred to the Trust's Local Counter Fraud Specialist who will commence an investigation that may also result in criminal proceedings being commenced.

### 3. Monitoring and Review

3.1 Data will be collected by the HR department and will form part of regular reports. Any associated costs will be collated for action accordingly.

#### NHSLA Monitoring

Minimum requirement to be monitored	Process for monitoring e.g. audit	Responsible individuals/ group/ committee	Frequency of monitoring/ audit	Responsible individuals/ group/ committee (multi-disciplinary) for review of results	Responsible individuals/ group/ committee for development of action plan	Responsible individuals/ group/ committee for monitoring of action plan
<p>Maintain copies of individual for those staff who submit applications to undertake additional employment</p> <p>Where staff have been approved to undertake additional employment maintain record of management risk assessment</p>	<p>Line managers to keep records for each member of staff</p> <p>Human Resources Department to monitor and maintain copies for duration of additional employment</p>	Line managers and HR	Annual	Line Manager	Line Manager	Line Manager

## Appendix \_\_ Equality Analysis

**NB - It is the responsibility of the author / reviewer of this document to complete / update the Equality Analysis each time it has a full review and to contact the Equality Diversity and Inclusion Lead if a full equality impact analysis is required**

## Equality Impact Analysis Screening Form

Title of activity	Additional Employment Policy		
Date form completed	08 February 2021	Name of lead for this activity	Georgia Travis

Analysis undertaken by:			
Name(s)	Job role	Department	
Georgia Travis	Assistant HR Advisor	HR	

What is the aim or objective of this activity?	This policy has been developed in order to clarify the Trust's position towards employees undertaking additional employment/private practice. It will ensure compliance with the requirements of the Working Time Regulations.
Who will this activity impact on? <i>E.g. staff, patients, carers, visitors etc.</i>	It confirms the arrangements to be adopted in order to safeguard the safe delivery of patient service and to protect the well-being of staff.

## Potential impacts on different equality groups:

Equality Group	Potential for positive impact	Neutral Impact	Potential for negative impact	Please provide details of how you believe there is a potential positive, negative or neutral impact (and what evidence you have gathered)
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Gender reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Marriage & civil partnerships	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Pregnancy & maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Sexual Orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

<b>Additional Impacts</b> <i>(what other groups might this activity impact on? Carers, homeless, travelling communities etc.)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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If you have ticked one of the above equality groups please complete the following:

**Level of impact**

	Yes	No
Could this impact be considered direct or indirect discrimination?	<input type="checkbox"/>	<input type="checkbox"/>
If yes, how will you address this?		

	High	Medium	Low
What level do you consider the potential negative impact would be?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*If the negative impact is high, a full equality impact analysis will be required.*

**Action Plan**

How could you minimise or remove any negative impacts identified, even if this is rated low?
How will you monitor this impact or planned actions?
Future review date: TBC