

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

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Lincolnshire Community Health Services NHS Trust Additional Employment Policy

Policy Statement

Background	<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>
Statement	<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>
Responsibilities	<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>
Training	<p>Development for manager's awareness of the policy.</p>
Dissemination	<p>Lincolnshire Community Health Services NHS Trust's website</p>
Resource implication	<p>Additional work involved for the HR department</p>

Lincolnshire Community Health Services NHS Trust

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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 appendix 1 - Application form to undertake additional employment).
Doctors 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 at Appendix 2).

- 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 affects 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 (appendix 1), letter of authorisation to employee and a copy of the risk assessment should be sent to the HR department, Beech House 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>	<p>Line managers and HR</p>	<p>Annual</p>	<p>Line Manager</p>	<p>Line Manager</p>	<p>Line Manager</p>

Appendix 1 Application to undertake Additional employment

Applicant's Details:	
First Name	
Surname	
Home Address	
Contact Telephone Number	
Job Title	
Base	
Details of current working pattern <i>(ie. Mon – Fri 09:00 – 17:00, 12 hour shifts incl. nights and days etc)</i>	
Line Manager	
How frequently do you tend to work overtime? <i>(i.e. every week, one a month etc)</i>	
How much overtime have you worked in the last 3 months?	
Details of Additional employment	
Name of Additional Employer	
Nature of work to be undertaken: <i>(please provide details of the types of duties)</i>	
Details of hours and working pattern to be undertaken in additional employment: <i>(Night working, days etc)</i>	
How might this additional employment affect your ability to undertake your duties in the Trust and what will you do to minimise any such effects?	
To what extent would your additional employment together with your employment in this Trust breach the Working Time Regulations? <i>(please consider the points below which relate to the key provisions of the Working Time Regulations)</i>	

Would you be working more than an average of 48 hours per week?

Would you be prevented from having 11 hours rest each day?

Would you be prevented from having a 24-hour break from work per week?

Would you be prevented from having a minimum of 28 days (5.6 weeks) leave per year?

Additional Information:

(Please provide any additional comments or information below which you think would assist in the consideration of your application to undertake additional employment)

I sign below to confirm that all of the information provided above is true and accurate and I agree to inform my line manager as soon as I become aware of any changes to these details.

Signed		Date	
Print Name		Job Title	

I sign below to confirm that I have given full consideration to the above employee's written request to undertake additional employment. I have also carried out a risk assessment in order to evaluate the potential impact the additional employment may have on the individual's job performance and on their health

Signed		Date	
Print name		Job Title	

Consideration of an application to undertake Additional employment

Within the NHS Terms and Conditions of Employment the standard working week is 37.5 hours based on the principle that all employees require adequate time away from the demands of their role, allowing them the opportunity to establish a healthy work-life balance. Controlling and monitoring working hours is regarded as an integral element of managing health and safety at work and promoting health at work. As such, when considering an application to undertake additional employment it is important to consider the following:

- The interests of the Trust and most importantly, the quality of patient care;
- The requirements of the individual's normal duties;
- The health and welfare of the individual employee;
- The requirements of the Working Time Regulations.

For more information on the Working Time Regulations, please see section 27 of the NHS Terms and Conditions of service handbook and the Trust's Working Time Regulations guidance.

Once the application and risk assessment is completed please send a copy to the HR department, Beech House, Waterside South, Lincoln, LN5 7JH. .

Appendix 3 Additional Employment – Management Risk Assessment

Name: Base:

 Job title: Contracted Hours:
 Shift Pattern: Regular Overtime Worked: Yes/No

About Additional employment	Score
<i>Does the work involve:</i>	
Working between 23:00hrs and 07:00hrs	5
Work between 18:00hrs and 23:00hrs	3
Work between 07:00hrs and 18:00hrs	1
Driving	4
Physical Effort	3
Work on days off	-1
<i>Is the work:</i>	
Less than 5hrs per week	1
Less than 10hrs per week	2
Less than 15hrs per week	3
Less than 20 hrs per week	4
More than 20hrs per week	5
Based at home	1
Based away from the home	3
Are the hours the same each week	1
Do the hours vary each week	3
<i>Taking account of the Working Time Regulations, does the work result in:</i>	
Less than 11hr breaks between normal shifts once per week	2
Less than 11 hr breaks between normal shifts more than once per week	5
11hrs or more between normal shifts each day	-1
One uninterrupted 24hr period of rest per week	2
No uninterrupted 24hr period of rest per week	5
One uninterrupted 24hr period of rest per fortnight	5
More than one uninterrupted 24hr period of rest per week	-1
More than two uninterrupted 24hr periods of rest per fortnight	-1
Total Score	

Is the additional employment with a competitor? **Yes/No**
 Date: Review Date:
 Name of Assessor: Position:
 Signed (Employee) Signed (Assessor):

Additional Employment Risk Matrix

Total Score	Risk Rating	Risk Action Points
>30	High	The additional employment must not be sanctioned.
25-29	Significant	The additional employment must not be sanctioned unless; adequate rest can be taken; this must be a minimum of 24hrs uninterrupted rest per week and 11hrs between each of their contracted shifts. The employee should not be considered for shift overtime cover. The employee must be monitored and the risk assessment reviewed within one month.
20-24	Moderate	The additional employment should be allowed providing there is no conflict of interest. The employee must be able to take a minimum of one 24hr uninterrupted period of rest and 11hrs between each of their contracted shifts. The employee must be monitored and the risk assessment reviewed within two months.
10-19	Low	The additional employment should be allowed providing there is no conflict of interest (working for a competitor). The employee must be monitored and the risk assessment reviewed within three months.
<9	Negligible	The additional employment should be allowed providing there is no conflict of interest. The employee must be monitored and the risk assessment reviewed within six months.

Notes for Completion

The assessment must be undertaken in consultation with the employee who has made the application.

It is important to fully consider the employee's current work pattern i.e. normal shift length, whether they work standard days or shifts, the weekly contracted hours and the frequency and duration of any regular overtime.

Each question should be considered with the employee; if the answer is negative then move on to the next question, if the answer is positive then highlight the score accredited to that question in the final column.

It may be that one or more questions from each section is applicable, highlight the score for each.

When you have completed the questions, total the score and consult the risk matrix above to make a decision on the suitability of the additional employment.

The risk assessment must be reviewed within the time scales applicable to the level of risk. This aspect is crucial to; ensure that the assessment is still valid; the employee is not adversely affected by the additional employment and patient, staff and public safety are not adversely affected because of employee tiredness. Please forward a copy of the completed risk assessment to the HR department for recording on the individual's personal file.

Equality Analysis

Introduction

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help LCHS staff members to comply with the general duty.

Please complete the template by following the instructions in each box. Should you have any queries or suggestions on this template, please contact Rachel Higgins, Equality and Diversity Lead.

Name of Policy/Procedure/Function* Additional Employment Policy	
Equality Analysis Carried out by:	Annette Sadler
Date:	August 2019
Equality & Human rights Lead:	Rachel Higgins
Director	Ceri Lennon

***In this template the term policy\service is used as shorthand for what needs to be analysed. Policy\Service needs to be understood broadly to embrace the full range of policies, practices, activities and decisions: essentially everything we do, whether it is formally written down or whether it is informal custom and practice. This includes existing policies and any new policies under development.**

Section 1 – to be completed for all policies

A.	Briefly give an outline of the key objectives of the policy; what it's intended outcome is and who the intended beneficiaries are expected to be	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.		
B.	Does the policy have an impact on patients, carers or staff, or the wider community that we have links with? Please give details	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.		
C.	Is there is any evidence that the policy\service relates to an area with known inequalities? Please give details	No		
D.	Will/Does the implementation of the policy\service result in different impacts for protected characteristics?	No		
		Yes	No	
	Disability		X	
	Sexual Orientation		X	
	Sex		X	
	Gender Reassignment		X	
	Race		X	
	Marriage/Civil Partnership		X	
	Maternity/Pregnancy		X	
	Age		X	
	Religion or Belief		X	
	Carers		X	
	If you have answered 'Yes' to any of the questions then you are required to carry out a full Equality Analysis which should be approved by the Equality and Human Rights Lead – please go to section 2			
The above named policy has been considered and does not require a full equality analysis				
Equality Analysis Carried out by:		Annette Sadler		
Date:		August 2019		