

Employing Staff Working Term Time Only Contracts

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1.0 **Summary**

This document is designed to provide guidance and advice on the process for Employing Staff using Term Time Only Contracts.

2.0 **Who this document is relevant to:**

All Managers and Supervisors

3.0 **Related Organisation Policies**

Annual Leave Policy
MGN15 - Annualised Hours
Flexible Working Policy
Disciplinary Policy and Procedure

4.0 **Related legislation and national guidance**

Working Time Directive
Agenda for Change Handbook
Part time Workers Regulations

5.0 **Training Requirements**

None

6.0 **Equality Impact Assessment**

Equality Impact Assessment Form completed on 30/11/2009 for publishing on the Organisation's website

**This document can be accessed and printed via the
Intranet Document Library**

MANAGEMENT GUIDELINES
FOR EMPLOYING STAFF USING TERM TIME ONLY CONTRACT

INTRODUCTION

Term Time only contracts may be used to cover either the provision of services to establishments/service providers where there is only a need to provide those services during term time e.g. special schools or other educational establishments, or where it may be beneficial to employees who have responsibility for the care of children.

The guidelines for using Term Time Only contracts are intended to complement existing terms and conditions of employment within NHS Kernow Clinical Commissioning Group. All Term Time Only hours agreements will remain in accordance with existing contracts of employment and conditions of service. No Term Time only hours agreement should be entered into without discussion with the Human Resources Department and consideration of the implications for continuity of service provision and the potential adverse impact on other colleagues. Such arrangements should be agreed locally to meet the local service needs.

Individual requests for Term Time Only working (as opposed to posts advertised for term time only working) must be submitted and will be considered through the Organisation's Flexible Working Policy.

AGREEING THE CONTRACT

The appointing manager and employee will agree the number of hours to be worked during term time throughout the year excluding school holidays. The number of weeks to be worked will be dependent on service requirements. The academic year in Cornwall is 38 weeks (39 weeks if one week of "inset" days is included) but some purchasers of specialist services may elect to pay for up to 42 weeks, e.g. provision of services to specialist educational facilities.

Where a Term Time Only Contract includes an element for inset days or additional time for other reasons and the employee is not required to attend their normal place of work on these days then they should use that time for administration, mandatory training, record keeping updating or professional development. Inset days should be treated as normal working days and not additional holidays. Line managers should ensure that employees on term time only contracts fulfil the contractual weeks for which work is agreed.

Staff may be expected to undertake statutory, mandatory or professional training during school holidays, if required for the effective performance of their duties, for which paid time off at a later date will be granted, in accordance with Agenda for Change.

Employees will receive a notional annual leave element based on the number of weeks worked during the year and length of reckonable service.

This will have the effect of enhancing their pay and they will take all their holidays during the school holidays only.

All employees will receive a payment per month equivalent to 1/12th of the salary for the hours that they work (including proportional annual leave) averaged over the whole year.

See examples below of how the various elements are calculated.

ANNUAL LEAVE

All Annual Leave is to be taken during school holidays. Because the annual leave element is included in the calculation of the salary there is no entitlement to take annual leave during term time.

Term time only working does include an entitlement to proportional Bank Holiday Leave.

Where an employee wishes to take annual leave during term time and school holidays, and where the work pattern is irregular, then consideration should be made to offering them an annualised hours contract inclusive of proportional annual leave and proportional Bank Holidays.

Annual Leave shall be calculated by multiplying the number of weeks for which the employee is contracted to work by the appropriate annual leave and dividing the result by 52 less the appropriate annual leave allowance.

Pay averaged over 52 weeks shall be payable for the number of weeks for which the employee is contracted to work plus the number of days entitlement to annual leave.

The pay and annual leave of employees who work part-time during school term shall be calculated pro-rata.

CONTRACT OF EMPLOYMENT

For new starters with the Organisation working Term Time Only hours, the average contracted hours to be paid per week should be shown on the appointment form and in the contract of employment.

Where an existing employee moves from their current contracted hours to a Term Time Only hours contract, the change should be actioned by the appointing manager completing a contract amendment form. The changing to term time only hours by existing staff should in no way change their current terms and conditions of service unless this is specifically agreed with the individual member of staff. The term time only hours to be worked will be in accordance with normal arrangements within the working area for shifts or working time.

Any deliberate attempt to falsify hours worked or otherwise abuse the Term Time Only working scheme may lead to disciplinary action or the matter being referred to the Organisation's Counter Fraud Specialist for investigation.

TERM TIME ONLY CALCULATIONS – WORKED EXAMPLES

These are to be calculated by the Line Manager, with assistance from the Human Resources Department, if required. A record of the calculations must be kept in the employee's 'P' file and attached to any payroll documentation. (Note this calculation applies to voluntary term-time contracts requested by an employee, rather than contracts that are required to mirror the opening times of educational establishments)

Calculating Term Time Only Annual Leave, Contract Hours and Salary

Example 1: Band 5 Nurse working full time 37.5 hours per week over 38 weeks on Appointment.

Annual Leave 7 weeks - 5 weeks 2 days (5.4 weeks) + 1 week 3 days (1.6 weeks) Bank Holidays

Whole time salary £16,000 per year

Annual Leave = $\frac{\text{No of weeks worked times (x) full year's annual leave entitlement}}{\text{Divided by 52 weeks less (-) full year's annual leave entitlement}}$

$$\text{Eg } \frac{38 \times 7}{45^*} = 5.9111 \text{ weeks (29.5 Days)} \quad (*45 = 52 - 7)$$

**Salary ie: Annual Salary adjusted as proportion of salary payable for full year
Paid monthly in equal payments of one twelfth of annual salary**

$\frac{\text{No of weeks worked during year plus (+) proportional annual leave times (x) annual salary}}{\text{Divided by 52 weeks of the year}}$

$$\text{Eg } \frac{38 + 5.9111}{52} \times £16,000 = £13,511.11 \text{ pa}$$

Contract hours

$$\frac{38 + 5.9111}{52} \times 37.5 = 31.6667 \text{ hours} = 31 \text{ hours } 40 \text{ minutes per week average per week}$$

To check calculations divide average contract hours by full time hours times full time salary

$$\text{Eg } \frac{31.6667}{37.5} \times £16,000 = £13,511.12 \text{ pa}$$

PLEASE NOTE THAT THESE CALCULATIONS INCLUDE A PRO RATA ENTITLEMENT TO ANNUAL LEAVE, WHICH WILL INCREASE WITH LENGTH OF SERVICE AND PROPORTIONAL BANK HOLIDAY LEAVE.

Cf : Example 2

Example 2: Band 6 School Nurse working part time 25 hours per week over 39 weeks with over 5 years service on Appointment.

Annual Leave 7.4 weeks - 5 weeks 4 days (5.8 weeks) + 1 week 3 days (1.6 weeks) Bank Holidays

Whole time salary £28,500 per year

Annual Leave = $\frac{\text{No of weeks worked times (x) full year's annual leave entitlement}}{\text{Divided by 52 weeks less (-) full year's annual leave entitlement}}$

$$\text{Eg : } \frac{39 \times 7.4}{44.6^*} = 6.4709 \text{ weeks (32.3543 Days)} \quad (*44.6 = 52 - 7.4)$$

**Salary ie: Annual Salary adjusted as proportion of salary payable for full year
Paid monthly in equal payments of one twelfth of annual salary**

$\frac{\text{No of weeks worked during year plus (+) proportional annual leave times (x) annual salary}}{\text{Divided by 52 weeks of the year}}$

$$\text{Eg } \frac{39 + 6.4709}{52} \times \frac{25}{37.5} \times £28,500 = £16,614.36 \text{ pa}$$

Contract hours

$$\frac{39 + 6.4709}{52} \times 25 = 21.8610 \text{ hours} = 21 \text{ hours } 52 \text{ minutes per week average per week}$$

To check calculations divide average contract hours by full time hours times full time salary

$$\text{Eg: } \frac{21.8610}{37.5} \times £28,500 = £16,614.36 \text{ pa}$$

PLEASE NOTE THAT THESE CALCULATIONS INCLUDE A PRO RATA ENTITLEMENT TO ANNUAL LEAVE, WHICH WILL INCREASE WITH LENGTH OF SERVICE AND PROPORTIONAL BANK HOLIDAYS.

Cf : Example 3

Example 3: Band 7 Speech and Language Therapist working part time 21 hours per week over 42 weeks with over 10 years service on appointment.

Annual Leave 8.2 weeks - 6 weeks 3 days (6.6 weeks)+1 week 3 days(1.6 weeks) Bank Holidays

Whole time salary £30,300 per year

Annual Leave = $\frac{\text{No of weeks worked times (x) full year's annual leave entitlement}}{\text{Divided by 52 weeks less (-) full year's annual leave entitlement}}$

$$\text{Eg } \frac{42 \times 8.2}{43.8^*} = 7.8630 \text{ weeks (39.3150 Days)} \quad (*43.8 = 52 - 8.2)$$

**Salary ie: Annual Salary adjusted as proportion of salary payable for full year
Paid monthly in equal payments of one twelfth of annual salary**

$\frac{\text{No of weeks worked during year plus (+) proportional annual leave times (x) annual salary}}{\text{Divided by 52 weeks of the year}}$

$$\text{Eg } \frac{42 + 7.8630}{52} \times \frac{21}{37.5} \times £30,300 = £16,270.68 \text{ pa}$$

Contract hours

$$\frac{42 + 7.8630}{52} \times 21 = 20.1370 \text{ hours} = 20 \text{ hours 8 minutes per week average per week}$$

To check calculations divide average contract hours by full time hours times full time salary

$$\text{Eg } \frac{20.1370}{37.5} \times £30,300 = £16,270.69 \text{ pa}$$

Variance is £0.01 and therefore negligible

PLEASE NOTE THAT THESE CALCULATIONS INCLUDE A PRO RATA ENTITLEMENT TO ANNUAL LEAVE, WHICH WILL INCREASE WITH LENGTH OF SERVICE AND PROPORTIONAL BANK HOLIDAYS.

**Initial Equality Impact
Assessment
Pro Forma**

Section		Officer responsible for the assessment	John Shipwright			
Name of MGN to be assessed	Term Time Only Working – MGN23	Date of Assessment	30 November 2009	Is this a new or existing MGN?	New MGN	
1. Briefly describe the aims, objectives and purpose of the MGN.		To ensure that the KCCG has a fair and consistent management guidance note to calculate annual leave, contract hours and pay of those staff working during term time only and taking their annual leave exclusively during school holidays.				
2. Are there any associated objectives of the MGN? Please explain.		To follow the rationale adopted for the calculation of annual leave, contract hours and salary for Term Time Only Working in Whitley Council Handbooks in force prior to the inception of Agenda for Change				
3. Who is intended to benefit from this MGN, and in what way?		All staff who work Term Time Only by receiving slightly more generous terms to reflect the lack of flexibility to take annual leave at other times and management will benefit by having a clear mechanism for calculating basic pay, which with on-costs will provide a basis for recharging contracts provided to educational establishments.				
4. What outcomes are wanted from this MGN?		As above				
5. What factors/forces could contribute/detract from the outcomes?		Changes in service delivery meaning that there is a reduced requirement to have staff working Term time Only.				
6. Who are the main stakeholders in relation to the MGN?	All staff and managers, and trade unions			7. Who implements the policy, and who is responsible for the policy?	Managers, HR and Trades' Unions	
8. Are there concerns that the MGN could have a differential impact on RACIAL groups?	Y	N✓	Please explain The MGN applies equally to all staff that may work Term Time Only			

What existing evidence (either presumed or otherwise) do you have for this?			
9. Are there concerns that the MGN could have a differential impact due to GENDER (including TRANSGENDER)?	Y	N✓	The MGN will predominantly apply to female employees who prefer to work Term Time Only because they have the main caring responsibility for children of school age. However, there is nothing to prevent it being utilised by male or transgender employees if it suits their own personal circumstances and the needs of the service.
What existing evidence (either presumed or otherwise) do you have for this?			
10. Are there concerns that the MGN could have a differential impact due to DISABILITY?	Y	N✓	Disability should not be a barrier to working Term Time Only
What existing evidence (either presumed or otherwise) do you have for this?	All premises within which these types of contracts are worked should conform to Section 30 of the DDA and Disabled Access should not present a problem.		
11. Are there concerns that the MGN could have a differential impact due to SEXUAL ORIENTATION?	Y	N✓	Offering a Term Time Only Contract should not be affected by the Sexual Orientation of the employee
What existing evidence (either presumed or otherwise) do you have for this?			
12. Are there concerns that the MGN could have a differential impact due to their AGE?	Y	N✓	There should be no differential aspect because of age
What existing evidence (either presumed or otherwise) do you have for this?	Applies equally to all staff.		
13. Are there concerns that the MGN could have a differential impact due to their RELIGIOUS BELIEF?	Y	N✓	There should be no differential aspect because of Religious Belief
What existing evidence (either presumed or otherwise) do you have for this?	The MGN is concerned with Terms in British Schools. All UK Public Holidays fall in school		

otherwise) do you have for this?		holidays. There may be potential for other religious holidays to fall during Term Time.	
14. Could the differential impact identified in 8 – 13 amount to there being the potential for adverse impact in this MGN?	Y	N ✓	Please explain
15. Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or any other reason?	Y	N	Please explain for each equality heading (questions 8 –13) on a separate piece of paper.
16. Should the MGN proceed to a full equality impact assessment?	Y	N ✓	17. If Yes, describe why, then proceed to a full EIA.
			18. If No, are there any minor further amendments that should take place?
			19. If a need for minor amendments is identified, what date were these completed and what actions were undertaken.

Signed (completing officer)

Date

Signed (Head of Section)

Date

Please ensure that a signed copy of this form is sent to both the Policies Officer and the Equality and Diversity lead to be placed on the Organisation website. Please ensure that a signed copy of this form is sent to both the Policies Officer and the Equality and Diversity lead to be placed on the Organisation's website.