

**HEALTH CARE COMPLAINTS COMMISSION
FLEXIBLE WORKING HOURS POLICY**

Contents

| | |
|--|-----------|
| 1. POLICY | 2 |
| 2. PRINCIPLES | 2 |
| 3. WORKING HOURS' PROVISIONS AND PROCEDURES | 3 |
| 3.1 Contract Hours of Work | 3 |
| 3.2 Business Hours | 3 |
| 3.3 Core Time | 3 |
| 3.4 Bandwidth | 3 |
| 3.5 Daily Working Hours..... | 4 |
| 3.5.1 Meal Breaks | 4 |
| 3.6 Rostering of Staff | 5 |
| 3.7 Record of time & maintenance of Flex Record Sheets | 5 |
| 4. FLEXIBLE WORKING HOURS' PROVISIONS AND PROCEDURES | 6 |
| 4.1 Flex Period..... | 6 |
| 4.2 Flex Leave..... | 6 |
| 4.3 Carry over and banking | 7 |
| 4.3.1 Part-time employees | 8 |
| 4.4 Standard hours..... | 8 |
| 4.5 Management of the system | 9 |
| 4.6 Separation from the Commission | 9 |
| 4.7 Recognition of accumulated flex credit hours from another agency | 10 |
| 5. DATA COLLECTION | 10 |
| 6. RECORD MAINTENANCE | 10 |
| 7. GRIEVANCES | 10 |
| 8. DELEGATION | 11 |
| 9. ASSOCIATED LEGISLATION OR INDUSTRIAL INSTRUMENTS OR AGREEMENTS. | 11 |
| 10. REVIEW..... | 11 |

HEALTH CARE COMPLAINTS COMMISSION

Policy: FLEXIBLE WORKING HOURS
Maintained by: Human Resources
Issued date: August 2005
Review date: February 2009

1. POLICY

The Health Care Complaints Commission's (HCCC) Flexible Working Hours Scheme (FWHS), as defined by the HCCC's Workplace Agreement has been established to improve organisational performance and to provide the Executive and employees with a greater flexibility in arranging working hours to facilitate the balance between work and personal life

The normal working hours of the Commission are 9:00 am to 5:00 pm, Monday to Friday, with the core time for full time employees being between the hours of 9:30 am and 3:30 pm and the operation of the FWHS must at all times take this into consideration by ensuring the Commission is appropriately staffed.

The Commission recognises that the requirements of employees and workloads can vary significantly and unexpectedly. The FWHS by providing employees with a mechanism that is fair in recognising time worked is one way of ensuring optimal alignment between Commission requirements and factors such as employee's family and personal responsibilities. This will only occur if the employees and the Directors, managers and supervisors of the Commission understand and accept the spirit as well as the operation of the FWHS, and respect the needs of the organisation and of individuals.

2. PRINCIPLES

In order that staffing levels are sufficient to meet operational requirements and performance standards, the operation of flexible working hours will be reviewed at regular intervals by the Executive and the Workplace Consultative Committee (WCC). As part of the FWHS, managers and staff are to develop Service Level Availability Standards for their Division that provide guidance on availability standards and reasonable notice for taking flex leave.

Managers and staff are committed to ensuring that:

- decisions regarding working hours will be made taking into account the operational requirements of the Commission, including the specific requirements particular to a Division;
- decisions regarding work hours will take into account equity and health and safety issues;

Subject: Flexible Working Hours Policy. No.
Issued: August 2005
Reviewed: February 2009; June 2009
Maintained by: Human Resources - Corporate Services
File Number: AF500

- decisions regarding working hours will be made between an employee and their direct supervisor based on consultation and negotiation;
- managers and employees will plan for the hours to be worked in a settlement period, the flex leave to be taken in a settlement period and the banking of flex leave by ensuring the following occurs:
 - managers will notify staff of the need to change hours as soon as possible, and
 - staff will give reasonable notice of a request for flex and/or banked flex leave.

3. WORKING HOURS' PROVISIONS AND PROCEDURES

The base conditions and principles for flexible working hours for employees are contained in the HCCC's Workplace Agreement. This Agreement amends certain provisions relating to Hours of Duty contained in the Crown Employees' (Public Sector Conditions of Employment) Reviewed Award 2006.

3.1 Contract Hours of Work

Contract hours are the minimum hours for which an employee is required to be on duty during a settlement period. The ordinary hours of work for Commission employees are 35 hours per week, Monday to Friday. The minimum contract hours required of a full time employee for a settlement period is 140 hours. Contract hours for part-time employees are prescribed in their part time agreements.

Employees who do not wish to work additional hours to their contract hours will suffer no discrimination or disadvantage.

3.2 Business Hours

The Commission's daily hours of business are 9:00 am to 5:00 pm.

3.3 Core Time

Core time for full time employees is between the hours of 9:30 am and 3:30 pm. Unless otherwise approved by the Director, all employees are required to be on duty between these hours, unless absent on lunch break. The standard core time may only be varied by agreement between the employee and their Director, with the approval of the Commissioner.

3.4 Bandwidth

The Commission's bandwidth for working hours is 7:00 am to 6:00 pm, Monday to Friday.

Employees, with their Director's concurrence, may select their starting and finishing times within bandwidth, subject to core time provisions and the fact that productive work is available.

Employees and their Director may, subject to the principles in the Workplace Agreement, agree to vary the bandwidth or their core time to meet the organisational requirements and/or to assist with the employee's specific family or other needs. Variations to the bandwidth are available to both groups of employees on a one-off or temporary or permanent arrangement

Prior approval in writing by the Commissioner, which has been supported by the relevant Director is required and the following principles must be considered:

- (a) one-off variations to work hours in response to organisational needs will not justify changes to the bandwidth;
- (b) relatively minor variations in daily work hours will not justify changes to the bandwidth e.g. 1 to 2 hours outside standard bandwidth time.

Any variation to bandwidth must have regard to the impact on the Commission's service sections.

If the bandwidth is altered, flex is accrued after seven (7) hours work (excluding meal breaks) and overtime after eleven (11) hours from the start of the altered bandwidth. Anytime worked during the settlement period before or after the bandwidth, unless otherwise approved by the Commissioner or his/her delegate and outlined within this policy, shall not be credited to the employee in any calculation of accumulated flex credits.

Subject to the varying of bandwidth by agreement between an employee, their Director and the Commissioner, if an employee is directed to undertake work before 7:00 am or after 6:00 pm, time worked in these periods will be regarded as overtime.

3.5 Daily Working Hours

The Commission's standard hours of work are 7 hours per day and employees will not be able to work more than 10 hours per day without specific approval to do so. This approval must be gained in advance from the manager.

3.5.1 Meal Breaks

During a normal working day, employees must take a meal break of at least 30 minutes duration and at or before 2:00 pm. The maximum meal break permitted is 3 hours, during the span of 11:30 am to 2:30 pm. Prior approval is ordinarily required for meal breaks in excess of 1 hour unless other arrangements already exist within the Division/Section. This is to ensure that adequate service provision is maintained across the whole lunch period.

3.6 Rostering of Staff

Any Director within the Commission may seek to agree upon a Divisional or Section roster with the employees of the Division/Section to ensure that there is adequate coverage of employees within the area across the normal operating hours of that Division/Section

3.7 Record of time & maintenance of Flex Record Sheets

The accurate recording of time worked is mandatory. Flex Record Sheets should be kept current at all times and when completed, stored in a central location accessible to the Director and Manager. The Commission recognises that there will be times when employees cannot fill in their time keeping records each day and in these circumstances employees must complete their time records at the first available opportunity upon return to work. Data from the Record will be analysed from time to time.

Any time worked outside the normal bandwidth, Monday to Friday, including weekend work, will also be recorded on the time sheet. Such time might be overtime or other time worked by an employee, which has been an agreed variation to the bandwidth with the Director and Manager.

Hours worked outside 7:00 am to 6:00 pm Monday to Friday will not be accumulated on timesheets unless a variation to the bandwidth was approved by the Commissioner in advance. A copy of the written approval to vary bandwidth must be kept with the timesheet.

Paid overtime hours should not be recorded on the Flex Record Sheet in a manner that allows for the accumulation of credit flex hours.

If time in lieu has been approved for working outside the bandwidth, then a record of the hours of time in lieu needs to be certified and the balance of time in lieu accurately maintained. The accurate recording of all time worked is important for many reasons, one of which is for the purposes of Workers Compensation.

Approved absences due to recreation, sickness, family and community services, study, maternity, paternity, adoption or special leave will be credited to the employees accrued working hours on the employee's flex record sheet. Such absences may be for periods as short as a quarter ($\frac{1}{4}$) day and subsequent leave taken in multiples of a quarter of a day up to a maximum total of 7 hours, with the appropriate amount of time for the absence being recorded as accrued work time on the employee's flex record sheet and debited to the employee's leave record maintained by Human Resources.

The Flex Record Sheet is subject to certification by the manager at the end of each flex period. Managers in this situation are to certify on the employee's Flex Record Sheet that the time recorded is actual and/or reasonable time worked and that the work has been carried out during the time recorded. It must also be verified that any hours

Subject: Flexible Working Hours Policy. No.
Issued: August 2005
Reviewed: February 2009; June 2009
Maintained by: Human Resources - Corporate Services
File Number: AF500

worked outside the bandwidth times of 7:00 am to 6:00 pm were approved, in advance by the Director.

It must be remembered that Flex Record Timesheets are official and auditable documents which may be required at any time for either internal or external audit purposes. Refer to Appendix 1 for a copy of the Flex Record Sheet Form.

4. FLEXIBLE WORKING HOURS' PROVISIONS AND PROCEDURES

4.1 Flex Period

The flex (settlement) period is four weeks, which is equivalent to 140 hours, the minimum contract hours required of a full time employee. This means that at the end of four weeks work a full time employee should normally have worked at least 140 hours. Any time which falls short of the 140 hours would be considered as the employee's debit. Any time which is in excess of 140 hours is the employee's credit.

4.2 Flex Leave

Employees will be entitled to take up to a maximum of two days of flex leave or banked flex leave or combination thereof equalling two days, each settlement period. The minimum time which can be taken as flex leave is a quarter ($\frac{1}{4}$) day and subsequent leave taken in multiples of a quarter of a day up to a total of 7 hours. Flex leave will be at the Commission's convenience and will require prior approval from an employee's Director or immediate supervisor. Directors will need to ensure that adequate staffing levels are available on any given day (subject to unforeseen situations) before approving the taking of flex leave.

The Director or supervisor may, however, consider special cases upon the request of the employee, where the approval for flex leave could take place after the leave has been taken. For example, an employee's childcare arrangements may have broken down for some reason on a particular morning. In this case it might be possible to approve the taking of accrued flex leave after the leave has been taken.

Any flex leave taken by an employee must be clearly recorded on his or her Flex Record Sheet.

With the prior approval of the Director, flex leave and/or banked flex leave may be used in conjunction with all other forms of leave to cover a full day's absence (7 hours) from duty.

Absences using flex time or banked flex time may occur during any period of recreation leave and may occur on more than one occasion during a settlement period. Flex leave may be taken immediately before, and/or after, any period of approved leave and may be taken on consecutive working days.

Where a staff member has accrued 8 weeks recreation leave (over 40 days), unless otherwise authorised by their Director, flex leave, including banked flex leave can only be taken where recreation leave has been applied for and approved. If, however recreation leave has been applied for and declined or not actioned by the manager, access to flex leave is still available.

4.3 Carry over and banking

The maximum carry forward of hours at the end of a flex period will be ten (10) credit hours or ten (10) debit hours. When an employee's accumulation of debit hours exceeds ten (10) hours at the end of a settlement period, the excess debit hours will be debited against accrued recreation leave or banked flex credits. If no such leave is available, the hours will be debited as leave without pay.

Where an employee with a flex credit in excess of ten (10) hours at the end of a settlement period takes less than two days flex leave in that settlement period, the employee may apply to their Director/manager to bank the unused flex credits.

Banking is only available to a maximum of 10 days in a calendar year or an equivalent pro rata amount for a part time employee.

In any settlement period, flex and banked flex hours' credits will not exceed fourteen (14) hours. Only flex credits in excess of ten (10) hours can be banked and will be taken at a time agreed between the employee and their Director/manager.

Banked time shall be taken with the prior approval of the Director/manager, however as in flex leave above, a Director/manager could consider a special circumstance where the taking of banked time could be approved after the leave has been taken, providing that the employee has a credit of banked time.

Any banked time taken by the employee must be clearly shown on their Flex Record Sheet and must be available to the employee before it can be taken. An employee will not be entitled to take another form of leave (for example, annual leave) and upon return from duty change that leave to accumulated banked flex leave. When an employee intends to use banked leave together with some other form of leave, the banked leave may only be taken at either the start or the finish of the other form of leave.

If banked flex leave accrues to the maximum amount and cannot be expensed during the course of the year due to operational commitments, a special request can be made by an employee to their Director, for recommended approval by the Commissioner, to take more than 14 hours of flex leave in a flex period. This request may be considered for approval as long as it was associated with the taking of a period of recreation leave. This exception to the normal practice and policy relating to the taking of flex leave would enable an employee to eliminate their accrued banked leave, returning their balance to zero. If an exception to normal policy were to occur, both the manager and

staff member should work together to reduce the likelihood of a future build-up of the maximum accrued amount of banked flex leave.

4.3.1 Part-time employees

Subject to any other agreement between an employee and their Director, an employee who is employed under a part-time work arrangement, which does not require fixed starting or finishing times and/or attendance at the Commission on specified days, are entitled to the flex leave provisions of this policy on a pro-rata basis. This includes the taking of flex/banked flex leave and accruing up to the maximum pro-rata accumulated credit and debit entitlements.

An employee, who elects to change from full-time to part-time work by agreement, may be permitted to exhaust accumulated flex leave entitlements prior to commencing part-time work or have any existing accumulated credit balance carry over.

4.4 Standard hours

To ensure that adequate services are always maintained by the Commission the HCCC's Workplace Agreement has provided for the following arrangements:

- (a) If a Director has particular concerns that their Division's operational requirements are not being met because of the terms associated with flexible working hours, the following shall occur:
 - i. the Director will discuss the concerns with the employee or employees concerned;
 - ii. the Director and the employee or employees will canvass options for resolving any difficulties both within the Director's team and across the Commission if appropriate. The Director and the employee or employees may if appropriate trial suitable options;
 - iii. if, following any trial, the Director continues to have concerns regarding the failure to meet operational requirements in the Director's team, the Director may, in accordance with the Crown Employees' (Public Sector Conditions of Employment) Award 2002, direct an employee or employees to revert to the conditions of the Award or to work standard hours for a specified period. Where the Director makes a direction under this provision, the Director will review that direction at least every three months.

In addition, the Commissioner may direct that standard hours and not flexible hours be worked as remedial action in respect of a staff member who has been found to have deliberately and persistently breached the flexible working hours' scheme. Such a situation might be regular occasions where the flex time guidelines are broken without

reasonable cause, flex record sheets are incorrect or are not a true reflection of the work undertaken by the employee, and so on. In these situations, the employee or employees may have their workplace delegate, union official or a support person present during discussions.

4.5 Management of the system

Management of the flexible working hours' system is one which requires the acceptance of the special circumstances and the needs of an area at a local level. As such, the operation of the flexible working hours' scheme will become the responsibility of each Director/manager in each area.

A Director/manager will be required to maintain a local record of the amount of banked time that employees have accrued at any one time as well as recording the taking of that leave so that an accurate balance can be obtained at any time.

A Director/manager must ensure that when employees are on duty there is available work to be done. That is, employees are not able to be on duty to accumulate additional hours if productive work is not available for them.

A Director/manager should not refuse a reasonable request for flex leave if operational requirements are being met. When a Director/manager is considering competing applications for flex leave and is unable to grant all of the applications, one of the relevant factors may be the credit or debit balances of respective applicants.

4.6 Separation from the Commission

When an employee gives notice of resignation, retirement or transfer to another government agency, the employee with the assistance of their Director/manager will, during the period of notice, take all reasonable steps to eliminate any accumulated credit or debit hours.

Where a staff member has an accumulation of debit hours at the completion of their last day of duty, the employee's accumulated recreation leave or money's owing will be adjusted accordingly to cover the debit. It will be the responsibility of the Director/manager to watch the level of debit that an employee has once they have tendered their resignation.

Where an employee has an accumulation of credit hours at the completion of their last day of duty, and the employee will be taking up employment in another public service or public sector organisation, the same provisions as apply under the Public Sector Employment and Management Act 2002 (Chapter 3, Part 3.2 *Staff Mobility*, Clause 95, *Annual Leave*) will apply to the accumulated, but untaken or not forfeited credit hours.

An employee may receive payment for accumulated credit hours that remain untaken or not forfeited on the last day of service, where:

- a) the employee's services terminate without a period of notice for reasons other than misconduct, or
- b) an application for flex leave which would have eliminated the accumulated credit hours was made during the period of notice or resignation of retirement and was refused.
- c) the agency the employee is transferring to will not accept the transfer of accumulated flex credits.

To facilitate the completion of any administrative proceedings associated with resignation, transfer or retirement, the taking of accrued flex and or banked flex time on an employee's last day of service at the Commission should be avoided.

4.7 Recognition of accumulated flex credit hours from another agency

The Commission does not recognise the transfer of flex credit hours or banked flex credit hours from another public sector or public service agency.

5. DATA COLLECTION

Data will be collected on variations to the standard bandwidth, the number of hours worked by employees, leave accrued and any other issues regarded as relevant to the assessment of the effectiveness of this policy.

6. RECORD MAINTENANCE

The maintenance of working hour records is the responsibility of each Division/Section. The Manager Corporate Services is available to assist in the establishment of a system for maintaining Flex Record Sheets. Directors must ensure: -

- Flex Record Sheets are checked and certified at the end of each flex period.
- the provisions of this policy are applied, for example, Banked Flex Leave is taken only when available.
- applications are made through Employee Self Service (ESS) prior to leave being taken or immediately after leave is taken.
- completed Flex Record Sheets are maintained in hard copy in one location for each Division so that they may be available at call for analysis and audit.

7. GRIEVANCES

Subject: Flexible Working Hours Policy. No.
Issued: August 2005
Reviewed: February 2009; June 2009
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Grievances between employees and their Director/manager over the implementation of any aspect of the FWHS will be dealt with through the Commission's Grievance and Dispute Resolution Policy and Procedures.

8. DELEGATION

As defined in this Policy and in the Commission's Delegations Manual.

9. ASSOCIATED LEGISLATION OR INDUSTRIAL INSTRUMENTS OR AGREEMENTS

- Health Care Complaints Commission's Workplace Agreement Health Care Complaints Act 1993
- Public Sector Employment and Management Act 2002
- Crown Employees' (Public Sector Conditions of Employment) Reviewed Award 2006.
- The Department of Premier and Cabinet's Personnel Handbook

10. REVIEW

A review of this Policy will be undertaken eighteen months following implementation or sooner, if the Commission's Workplace Agreement is varied or replaced or if changes occur to the Crown Employees (Public Sector Conditions of Employment) Reviewed Award 2006.