

NSW DEPARTMENT OF HEALTH

NSW Health Local Working Hours Agreement 2010

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1 Introduction

- 1.1** This Agreement ("the Agreement") is to be read in conjunction with the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* ("the Award"). The Agreement is made between the Public Service Association and Professional Officers Association Amalgamated Union of NSW (PSA) and the Department of Health (Department) in accordance with the provisions of clause 10 *Local Arrangements* of the Award.
- 1.2** This agreement replaces the preceding NSW Department of Health Flexible Working Hours' Agreement made on 9 February 1998 in its entirety. Staff will not lose any hours accrued prior to the introduction of this agreement. Appropriate transitional provisions will ensure that previously accrued hours are able to be used within one year of the commencement of this Agreement.

2 Principles

- 2.1** Agreement will apply to all Departmental staff members, as defined in the "Definitions" of this Agreement and will operate in conjunction with the following principles:
- 2.1.1** The purpose of the Agreement is to modify Clause 21 *Flexible Working Hours* of the Award as it applies to the Department.
- 2.1.2** The introduction of this agreement is intended to improve the Department's organisational performance and increase flexibility for all staff members to ensure that there is an appropriate balance between work and personal commitments.
- 2.1.3** The PSA, staff and management recognise that this will occur if all parties understand and accept the spirit of the Agreement, as well as its operation, and respect the needs of the organisation, co-workers, and individual staff members.
- 2.1.4** That customer service will be maintained or improved.
- 2.1.5** That the staff members and Department shall take all reasonable steps to ensure that a staff member does not regularly accrue credit hours at the conclusion of settlement periods in excess of those allowed by the Agreement.
- 2.1.6** That it be recognised by all parties to the agreement that all staff members may not have equal access to extended flexible work arrangements due to the operational requirements of the Department and that managers will maximise access to flexible working arrangements.
- 2.1.7** Actual working hours and patterns of work will be determined by mutual agreement between a staff member and their manager.
- 2.1.8** Decisions regarding working hours and patterns of work will be made by taking into account the following factors:
- (a) the operational requirements of the Department;
 - (b) the customer contact hours of the Department;
 - (c) seasonal peaks of work within the Department;
 - (d) the availability of necessary and productive work within the work unit;
 - (e) the need to limit the working of overtime;
 - (f) personal commitments and needs of staff members;
 - (g) OH&S and equity issues; and
 - (h) any other factors as may be agreed, from time to time, by the parties.

- 2.1.9 The taking and scheduling of flexible work arrangements shall be made in an equitable, transparent and fair manner that takes into account the impact on co-workers.
- 2.1.10 Other flexible work practices may be considered in conjunction with this Agreement.

3 Definitions

- 3.1 Agreement** refers to this document, being the “NSW Health Local Working Hours Agreement 2010”.
- 3.2 Accrued Work Time or (AWT)** is all time worked by Departmental staff members within the bandwidth with the exception of paid overtime during a settlement period.
- 3.3 Award** is the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* or its successor.
- 3.4 Banked time** is the terminology given to the hours/day nominated by an employee to be banked at the end of a settlement period. At the commencement of this Agreement, staff members with a credit balance of banked time will take forward their banked time allowable under clause 10 this Agreement. Any banked time over and above the two days allowed will become “old” banked time (refer to definition below).
- 3.5 Contract Hours** for a settlement period shall be calculated by multiplying the staff member's weekly contract hours by the number of weeks in a settlement period.
- 3.6 Core time** is the period during the day when an employee may be required to be on duty.
- 3.7 Customer Contact Hours** means the span of hours during which the Department's offices are open to external and internal clients.
- 3.8 Credit Hours** means the accrued time which exceeds the contract hours for a settlement period and is able to be accumulated under the Agreement or carried over into the next settlement period.
- 3.9 Debit Hours** means the debit which arises when the actual hours worked in a settlement period, including approved leave taken during the settlement period and any carry over from the previous settlement period, are less than the contract hours for the period.
- 3.10 Former agreement** is the agreement which was made on 9 February 1998 and which applied prior to the making of this Agreement. Except as provided for, the former agreement is replaced in its entirety by the terms of this Agreement.
- 3.11 Flex leave** is the term given to those periods of time that staff members may, subject to the approval of the staff member's manager and the principles of the Agreement, absent themselves from work.
- 3.12 Minimum Daily Contract Hours** for full-time workers means 7 hours of work, excluding any meal breaks.
- 3.13 “Old” Banked time** means banked time accrued under the former agreement. Up to 2 days of “old” banked time will be transferred from the former agreement to the banked time credit under this Agreement. Any additional days of “old” banked time accrued under the former agreement must be taken within 12 months of the commencement of this Agreement.
- 3.14 Settlement period** is 6 consecutive weeks. The settlement periods for the purposes of time recording and for flex leave shall coincide.

- 3.15 Staff member** means all persons, who are permanently or temporarily employed by the Department, in either a full or a part-time capacity, under the provisions of the Public Sector Employment and Management Act 2002 with the exception of the Chief Executive Service, Senior Executive Service.
- 3.16 Standard Hours** are from 9am to 5pm, Monday to Friday, with a lunch break of one hour or any 8 consecutive hours within bandwidth with an hour for lunch as agreed by the staff member and their manager.

4 Bandwidth

- 4.1** Bandwidth is the period during the working day when all staff members may work, record and accrue credit for time worked.
- 4.2** The bandwidth is from 7.30 am to 6.30 pm, Monday to Friday.
- 4.3** The bandwidth provisions may be varied by written agreement between the appropriate member of the Executive, the staff member and a designated Public Service Association representative (in situations where the employee is a union member), to suit operational/family needs. The Associate Director HR Operations must be informed of all such approvals.
- 4.4** An employee may elect to work any period of time or vary starting and finishing times within this bandwidth in agreement with the manager and subject to Departmental convenience.
- 4.5** An employee, who requests to work outside the standard, or agreed bandwidth, must obtain approval of their manager. The time worked is to be counted towards Accrued Work Time (AWT).
- 4.6** If approval to work outside the bandwidth is not sought or given, then the time worked outside the standard or agreed bandwidth is not to be counted for the purposes of accrual under clause 8.

5 Daily hours worked

- 5.1** A staff member, subject to approval of their manager, may nominate starting and finishing times.
- 5.2** All staff members are entitled to work their minimum daily contract hours on any nominated normal working day. A staff member cannot be directed to work less than the minimum daily contract hours on any nominated normal working day. However, depending on the operational requirements of the unit, a manager may require staff members to work their Minimum Daily Contract Hours.
- 5.3** A staff member may, subject to the approval of their manager, elect to work Standard Hours or Minimum Daily Contract Hours with fixed starting and finishing times.
- 5.4** A staff member may vary their working hours at any time, subject to the approval of the manager and in accordance with the provisions of the Agreement.
- 5.5** The maximum hours worked each day shall not exceed 10 hours on any one day.
- 5.6** Nothing in the Agreement shall prevent the Department from requiring a staff member to work standard hours or limit flexible working hours arrangements where:
- 5.6.1 operational demands so require and the staff member agrees; or
 - 5.6.2 the Director-General finds, in accordance with Part 2.7 Management of Conduct and Performance, *Public Sector Employment and Management Act 2002* that the staff member is not observing the terms of the Agreement.

6 Core time

- 6.1 The standard coretime is 9.30am to 3.30 pm.
- 6.2 These coretime provisions may be varied by written agreement between the appropriate Director, the staff member and a designated PSA representative (in situations where the employee is a union member), to suit operational/family needs. The Associate Director HR Operations must be informed of all such approvals.
- 6.3 In exceptional circumstances employees may commence work after or cease work before the standard coretime, provided that they notify their manager.

7 Lunch and meal breaks

- 7.1 A staff member must take a meal break of at least 30 minutes after no more than 5 hours of continuous work.
- 7.2 The standard entitlement for a lunch break is 1 hour, and with the approval of a staff member's manager may be extended up to 2.5 hours and shall be taken between the hours of 11.30 am and 2.30 pm.
- 7.3 The scheduling and duration of lunch breaks are subject to the operational requirements of the work unit, the needs of the staff member and the approval of the staff member's manager.

8 Accrual of work time within the settlement period

- 8.1 A staff member may only accumulate AWT in excess of the Minimum Daily Contract Hours where a manager is satisfied that work is available.
- 8.2 All time worked during the settlement period in accordance with the Agreement (except paid overtime) will count towards the staff member's AWT.
- 8.3 A staff member should have a minimum AWT of at least 200 hours at the conclusion of a settlement period. The minimum of 200 hours includes all credited AWT and all approved leave.
- 8.4 Where AWT is less than 200 hours at the end of the settlement period, the staff member will be required to utilise available leave to cover the shortfall in hours. If the staff member has no leave available, leave without pay (LWOP) will apply for the amount below 200 hours and the LWOP is credited to the AWT total.
- 8.5 A staff member is entitled to accumulate and carry forward up to and including an additional 28 hours in excess of the 210 hours to a maximum of 238 hours of AWT in any one settlement period. This additional 28 hours does not include designated banked days which may be accrued in line with 10.1 of this Agreement.
- 8.6 Except where prior approval is given in accordance with clause 8.9, any additional hours accrued will be forfeited at the end of the settlement period.
- 8.7 Managers and staff members will work together to ensure that staff members do not accrue more than 238 hours in a settlement period.
- 8.8 Hours worked are to be monitored by the staff member and their manager over a six week period, through the use of flexitime records as set out in Clause 9 of this agreement.

- 8.9** Where exceptional circumstances arise and it appears that the staff member will be required to accrue more than the maximum number of hours in a settlement period, this must be raised with their manager by the staff member and prior approval to accrue more than the maximum hours must be given by the manager and confirmed in writing by the relevant director.
- 8.10** Once the additional accrual of hours is approved:
- 8.10.1 The manager and staff member shall devise a strategy in writing to ensure that the staff member is able to take the approved hours in excess of the maximum as flex leave.
- 8.10.2 Strategies to reduce this credit may include the granting of additional full days, consecutive days, half days, or any combination of days and half days and shall ensure that hours are not forfeited.
- 8.10.3 The identified strategy must be reported to and authorised by the relevant director.

9 Monitoring of accrued work time

- 9.1** Hours worked are to be monitored by the staff member and manager over a six week period, through the use of flex time records. Managers and staff members must ensure that staff members do not regularly work in excess of 238 hours in a settlement period.
- 9.2** Staff members must complete a flex sheet for each 2 weeks of the settlement period. That is a partial flex sheet for the completed portion of the settlement period at 2 weeks and 4 weeks and then a full flex sheet for the 6 week settlement period no later than 2 weeks following the conclusion of a settlement period.
- 9.3** Where a staff member has credit hours in excess of 10 by the end of the first 2 week period of the settlement period or credit hours in excess of 15 hours by the end of the 4th week in a settlement period, then the manager and staff member shall devise a strategy in writing to reduce the excess credit hours.
- 9.4** Methods to ensure the reduction of excess credit hours may include reducing the hours worked during the remainder of the settlement period or the taking of flex leave to prevent the accrual of hours at the end of the 6 week settlement period.

10 Flex leave and banked time

- 10.1** A staff member can access up to a maximum of 3 flex days per settlement period. An employee may bank time each settlement period on the following basis:
- Where the staff member takes 3 flex days, no days can be banked;
 - Where the staff member takes 2 flex days, it is possible to bank one day;
 - Where the staff member takes 1 flex day or no flex days, then it is possible to bank two days;

- 10.2** The maximum number of banked days that can be held at any one time is 2 days.
- 10.3** The taking and scheduling of flexible work arrangements will be made in an equitable, transparent and fair manner that takes into account its impact on co-workers.
- 10.4** The scheduling of flex leave / banked time is to be negotiated between the staff member and their manager.
- 10.5** Subject to the operational requirements of the given unit, a staff member may vary working hours to suit their particular needs or absent themselves from work using flex leave.
- 10.6** Subject to the operational requirements of their work unit, a staff member may schedule their approved flex leave as consecutive single days, single days or half days, up to the maximum of 3 flex days in a given settlement period.
- 10.7** Flex time can be taken in combination with any banked time held by the staff member held under this Agreement Flex and banked time may also be taken together with other forms of leave. Where exceptional circumstances have arisen and a staff member has accrued additional hours in accordance with clause 8.9 of this agreement and requests to take a flex leave release of more than 3 days in a flex period, approval may only be given if the staff member has complied with the requirements of sub-clause 10.5 of the Award.

11 Additional flex entitlements

- 11.1 Easter concessional half day:** A staff member working under the provisions of this agreement will be granted an additional half day flex leave, subject to operational requirements, on the Thursday preceding the Good Friday public holiday or a period as determined by the Department of Premier and Cabinet. All other provisions of this agreement are to apply including limits on the carryover at the end of the settlement period.
- 11.2 Special circumstances flex leave:** A staff member with 10 (or fewer) days of accrued recreation leave may negotiate with their manager to take their accrued credit hours as flex leave where particular needs arise (e.g. family needs).

12 Overtime

- 12.1** The provisions of the Award will apply.
- 12.2** The application of overtime under the Agreement will be as follows:
- 12.2.1 Overtime will apply where a staff member is directed to work outside the agreed bandwidth or directed to undertake work between 7.30 am and 8.00 am and/or after 6.00 pm.
- 12.2.2 Overtime is to be paid or taken as time in lieu, as nominated by the staff member in accordance with the Award.
- 12.2.3 Overtime may only be worked following mutual agreement between the staff member and a manager, with the written approval of the relevant delegated manager.

13 Natural emergencies and major transport disruption

- 13.1** A staff member prevented from attending at a normal work location by natural emergency or by a major transport disruption may:
- 13.1.1 Apply to vary the working hours as provided in Clause 16. *Variation of Hours* of the Award or its successor, and/or
 - 13.1.2 Negotiate an alternative working location with the Department; and/or
 - 13.1.3 Take available family and community service leave and/or flex leave, recreation or extended leave or leave without pay according to the provisions of the Award to cover the period concerned.

14 Separation from the Department

- 14.1** Where a staff member gives notice of resignation, retirement or transfer to another government department, the manager and the staff member will, during the period of notice take all reasonable steps to eliminate any accumulated credit or debit of hours, including any banked days.
- 14.2** Managers will facilitate the elimination of accumulated credit or debit hours by such staff members.
- 14.3** Where a staff member has an accumulation of debit hours at the completion of the last day of service, the accumulated recreation leave or monies owing to that staff member will be adjusted accordingly.
- 14.4** Where a staff member has an accumulation of credit hours at the completion of the last day of service, and a reasonable application for a period of flex or banked leave which would have eliminated the accumulated credit hours was made pursuant to this agreement and refused, then provision exists for up to 10 hours accumulated credit to be paid to the staff member at the current salary rate.
- 14.5** Where it is requested by the staff member and agreed by the new agency, the staff member's credit hours may be carried forward to the new agency.

15 Part-time Staff

- 15.1** All part-time staff members, including those in job-sharing arrangements, have the same rights to flexible working hours arrangements as full-time staff members. The limits on the number of accrued credit hours and debit hours and the periods of flex leave permitted, will be the same as for full-time staff member.
- 15.2** Part-time staff members may not be directed to work more than their pro-rata contract hours.
- 15.3** All other provisions of this Agreement apply to part-time staff members.

16 Monitoring and varying the agreement

- 16.1** In accordance with the objectives of the Award, the parties shall co-operate in the monitoring and operation of this Agreement.

- 16.2** The flexible work arrangements as detailed in this Agreement are to be trialed on a pilot basis for a period of 12 months following the signing of the Agreement.
- 16.3** Six months from the commencement of this agreement, the parties agree to meet to discuss any issues arising from the implementation of the agreement. At the conclusion of the trial period the Department's Joint Consultative Committee will meet to review the outcome of the trial period and take action to address any problems.
- 16.4** Statistics on working hours are to be provided to both management and the Department's Joint Consultative Committee in accordance with the specifications agreed to by the parties.
- 16.5** The parties may agree to further changes to the Agreement during its term.

17 Disputes concerning the agreement

- 17.1** Any disputes concerning the Agreement will be dealt with in accordance with Clause 9 *Grievance and Dispute Settling Procedures* of the Award, or the relevant provision in any successor Award.
- 17.2** In accordance with the principles of the Agreement, a staff member may seek and rely upon the advice, assistance and/or representation of the PSA at any stage.

18 Savings of rights

- 18.1** In applying this provision, it is the intent of the parties that staff members continue to be entitled to the net benefit of any changes made to the Award or its successor, where changes set a mandatory new standard across the NSW Public Service in relation to hours of duty arrangements.

19 Exit provisions

- 19.1** Subject to satisfactory review following the 12 month trial period, this Agreement will operate for a period of three (3) years and then will require review by all parties as to its suitability to continue, to be amended or, to be terminated.
- 19.2** The parties agree to enter into negotiations for the continuation, amendment or, termination of the Agreement by no later than six (6) months from the nominal expiry of the Agreement.
- 19.3** In the absence of an agreement between the parties for a Local Arrangement for Flexible Working Hours the prevailing provision contained within the Award or its successor will apply.

20 Endorsements

This **AGREEMENT** was made on the 15th day of November, 2010 **BETWEEN** the Public Service Association and Professional Officers Association Amalgamated Union of NSW, the Director-General, Department of Health.

SIGNED BY

General Secretary
Public Service Association of NSW
in the presence of

.....
(Witness)

SIGNED BY

As Director-General
Department of Health
in the presence of:

.....
(Witness)

SIGNED BY

As Director-General
Department Premier and Cabinet
in the presence of

.....
(Witness)