

SECONDARY EMPLOYMENT POLICY

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CONSULTATION SCHEDULE

Name & Title of Individual	Groups Consulted	Date Consulted
		24 th Sept 2020

RATIFICATION SCHEDULE

Communications, Engagement, Equality & Employment Committee	Oct 2020
Governing Body Meetings in common	May 2021
Integrated Care Board	July 2020

VERSION CONTROL

	Version	Date	Author/amended by
1	North Staffs & Stoke-on-Trent	2016	Caroline Nokes-Lawrence
2	Adapted as joint policy across six CCGs	Aug 2019	Jane Chapman
3	Further clarification of wording	May 2021	Caroline Nokes-Lawrence
4	Adapted for the ICB	July 2022	Jane Chapman

IMPACT ASSESSMENTS

	Stage	Date completed	Comments
Equality Impact Assessment			
Quality Impact Assessment			
Privacy Impact Assessment			

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1. Introduction

NHS Staffordshire and Stoke-on-Trent Integrated Care Board (the ICB) recognise that employees may engage in secondary employment or self-employment in addition to their primary post.

However, the ICB must be satisfied that there are no conflicts of interest or health and safety implications for the employee or their colleagues or patients and that this other work does not have an adverse effect on their ability to carry out their duties.

The policy will be applied fairly and equally to create a consistent approach.

The ICB will work with staff undertaking secondary employment to ensure that they comply with the requirements of Working Time Regulations and that they are able to undertake their duties without conflict of interest or loss of performance.

1.1 This Policy should be read in conjunction with the

- Conflicts of Interest Policy
- Disciplinary policy
- Anti-Fraud and Bribery policy
- Standards of Business Conduct

2. Purpose and Scope

Ensure that employees do not engage in secondary employment that conflicts with or affects their duties under their Contract of employment with the ICB.

Support Managers and employees in upholding legislation on working time/hours, including total hours worked, breaks between shifts and annual leave.

Support staff when undertaking secondary employment to achieve their personal objectives, helping them to maintain a balanced approach to their duties with the ICB.

This policy applies to all employees and prospective employees of the ICB. The ICB will allow staff to either continue in their secondary employment, or undertake secondary employment, providing it is satisfied that:

It will not adversely affect their duties under their contract of employment.

- The arrangement complies with the requirements of the Working Time Regulations.
- There is no conflict of interest between employers or roles.

3. Definitions

The term 'Secondary Employment' in this policy covers:

- An additional post with the ICB
- Paid employment with an additional employer
- Voluntary work including public office duties e.g. Local Councillor
- Self-employment.
- Reservist Occupations
- Bank / Locum / Agency Work outside the ICB
- Bank / Locum Work

4. Roles and Responsibilities

4.1 Employees Responsibilities

All employees (including GP's /Clinicians) must inform their Line Managers about any current employment outside of the ICB or other roles within the ICB using the Secondary Employment Declaration Form. Employees should also declare any previous employment not declared.

Before accepting any new employment, employees must complete the Secondary Employment Declaration Form and discuss this with the Manager prior to accepting additional work.

Employees must have permission from their manager agreed prior to accepting any additional employment. New appointees to the ICB must disclose any existing jobs which will continue after commencing employment with the ICB and complete the Secondary Employment Declaration Form Employees must complete a new Secondary Employment Declaration Form

the details of their secondary employment change. Employees must also complete a Declaration of Interest Form every six months as requested by the ICB or within 28 days of any change taking place.

Further details can be found in the ICB's Governance Handbook section on Conflict of Interest and advice can be sought from the Deputy Director of Corporate Governance. Employees must adhere to the Working Time Regulations and take responsibility for their own health and safety and the health and safety of others.

4.2 Manager Responsibilities

Managers must apply this policy fairly and equally to create a consistent and balanced approach.

4.3 Current Employees

On receipt of a Secondary Employment Declaration Form managers must meet with the employee to discuss the Secondary Employment with the employee. Before granting permission to undertake secondary employment the Manager should consider the following:

- Potential conflicts of interest.
- The working time regulations.
- Employee current performance.
- Employees' attendance and capability in their role with the ICB and the potential impact secondary employment may have on attendance and performance.

4.4 New Starters

During the recruitment process the manager must establish if candidates intend to continue with any secondary employment both inside and outside of the ICB. If the successful candidate does intend to continue with any secondary employment the recruiting manager should discuss with the candidate the nature of the secondary employment and consider the following points before permitting the secondary work to continue should the candidate wish to take up the post with the ICB:

- Potential conflicts of interest
- The working time regulations Advice can be sought from the Head of HR and OD before a formal offer is made. New appointees must complete a declaration of interests form upon commencement of their new role within the ICB and thereafter every six months or within 28 days of any changes taking place.

5. Working Time and Annual Leave

Employees must comply with the required rest periods as set out in the Working Time Regulations and any secondary employment should not compromise this under any circumstances.

Employees should only undertake secondary employment activities (e.g. on the bank) whilst on annual leave from their substantive post with the ICB if prior approval has been given by the manager. It should be noted that the ICB does not encourage this as it is felt to be detrimental to the health and well-being of staff and will only be approved in exceptional circumstances.

When considering if this should be approved, managers should establish how much of an employee's annual leave will be used to undertake secondary employment. It is recommended at the very minimum employees should take as annual leave the entitlement as laid out under the working time regulations which is 28 days pro rata including bank holidays to ensure compliance with the working time regulations based on full time working.

Failure to comply with the Working Time Regulations may result in an investigation in accordance with the ICB Disciplinary Policy and Procedure and is regarded by the ICB as misconduct.

6. Sickness

Employees should refrain from their secondary employment whilst on sick leave from the ICB.

This includes any work during "non ICB working hours", e.g. weekends and evenings unless a GP Fit for Work Certificate states otherwise.

If an employee wishes to continue with secondary employment whilst off sick they must request permission in writing from their manager. The employee should outline the nature of the work they wish to undertake, the number of hours they intend to work and confirm any payment that might be received for this work (excluding expenses).

The manager must seek advice from the HR Department in this situation and advice from Occupational Health may also be sought to establish the benefits for the employee. Permission could be granted based on exceptional circumstances, that it could be beneficial to the employee's recovery and well-being to undertake the secondary employment.

Failure to adhere to this policy whilst on sick leave may result in disciplinary action which could lead to dismissal. It may also be considered as fraudulent activity by the Local Counter Fraud Service.

7. Retraction of Permission to Undertake Secondary Employment

There may be circumstances where it is necessary for the ICB to retract its permission for a member of staff to undertake secondary employment.

7.1 Attendance / Time Keeping

Where attendance or time-keeping is of concern and is attributable to Secondary Employment the ICB reserves the right to retract any permission given to an employee to undertake secondary employment. The Employee reserves the right to invoke the grievance procedure if they feel that a decision to retract this permission is not justified.

7.2 Capability / Performance/Conduct

Managers must monitor the performance of their staff. If performance falls below acceptable standards and the capability procedure has been invoked the ICB reserves the right to retract any permission given to an employee to undertake secondary employment if the secondary employment is deemed to contribute to the poor performance.

If an employee is suspended from work under the Disciplinary policy, the employee may have their permission to carry out secondary employment retracted. The Employee reserves the right to invoke the grievance procedure if they feel that a decision to retract this permission is not justified.

7.3 Rise of a Conflict of Interest

There may be times where a new conflict of interest has arisen that did not previously exist when a new member of staff was appointed or when permission was given by the ICB for a member of staff to undertake secondary employment.

Employees have a responsibility to highlight any new potential or perceived conflicts of interest that arise or may arise with their manager within 28 days of being aware of it. The manager along with the Deputy Director of Corporate Governance must assess the risk of the potential conflict of interest and if anything can be put in place to prevent the conflict of interest (i.e. removing staff member from a certain project etc).

If this cannot be avoided and the risk to the ICB and service delivery is too high, permission to undertake secondary employment may be retracted. The employee reserves the right to invoke the grievance procedure if they feel that a decision to retract this permission is not justified.

8. What happens if I don't comply with this Policy

Failure to comply with the secondary employment policy may result in disciplinary action being taken and could potentially lead to dismissal. Non-compliance in specific circumstances could also be construed as fraudulent activity which may be investigated by the Local Counter Fraud Service.

9. How Do I Declare Interests?

The Secondary Employment Declaration form is available in the appendix of this policy or with the Declaration of Interests Form on IAN.

10. Statement of Compliance with the Equality Act 2010

All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010.

The Act prohibits discrimination on the basis of age, disability, gender reassignment, marriage/civil partnership, pregnancy/maternity, race, religion/belief, sex or sexual orientation. It also means that each manager or member of staff involved in implementing the policy must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation; advance equality of opportunity between those who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Document Lead (author) who will then actively respond to the enquiry.

11. Counter Fraud

The ICB is committed to the NHS Counter Fraud Authority Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

12. Review

This policy will be reviewed every 3 years but can be reviewed at any time if the ICB deems it necessary to do so or a review is requested by staff side or management.

Secondary Employment Declaration Form

For support at any stage in completing, please contact your line manager or the Head of HR and OD. I have read the ICB's Secondary Employment Policy and Conflict of Interest Policy, and confirm that;

I have Secondary Employment in addition to my contract with the ICB.

Declaration

I am currently employed as _____ employed by

under a contract dated _____.

The details of my Secondary Employment are as follows:

Employer: _____

Job Title: _____

Start date of employment: _____

End date of employment: _____

Typical working hours: _____

Typical working patterns: _____

Are you subject to night working Yes/No

within this role:

Duties undertaken Please complete the following section in block capitals

Your name: _____

Job Title: _____

Directorate: _____

Signed: _____

Date: _____

NB: If you currently have any form of bank work then this will also need to be declared.

Declaration

I declare that the above information is correct and that Secondary Employment in this instance will not have a detrimental effect on my work at the ICB. I will inform my line manager or the ICB Head of HR and OD if there are any changes to the above. I understand that false information given with regard to this policy may amount to gross misconduct or fraud and may be dealt with accordingly under the ICB Disciplinary and/or Counter Fraud

Policy. To prevent and detect fraud I consent to the disclosure of relevant information from this form to and by the NHS Counter Fraud Authority.

Name: _____

Job Title: _____

Signed: _____

Date: _____

Line Manager

Please complete the following section in block capitals

Your name: _____

Job Title: _____

Directorate: _____

Signed: _____

Date: _____