

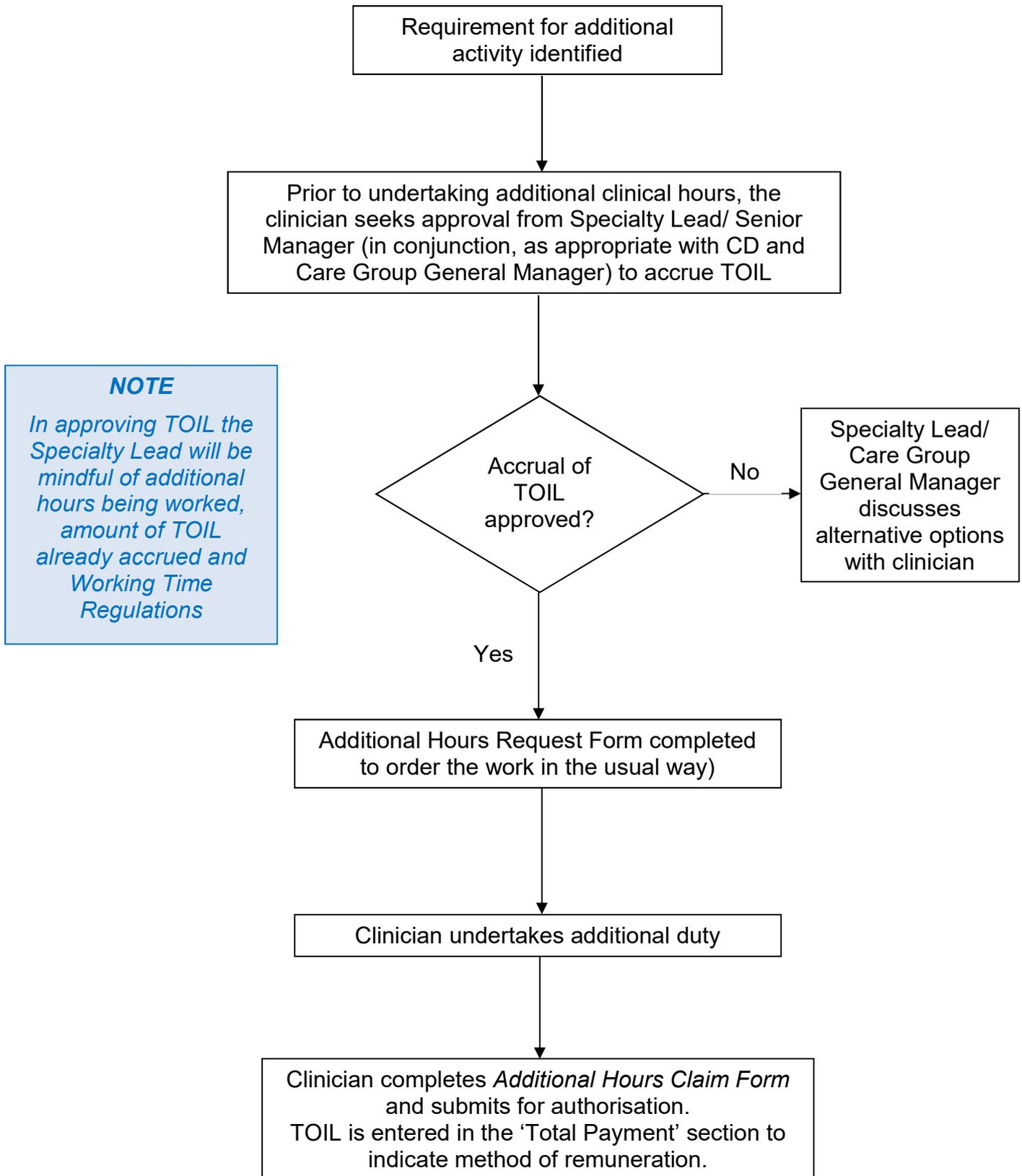
# **Consultant and SAS Doctor Short-Term Time Off In Lieu (TOIL) Policy**

**V1.0**

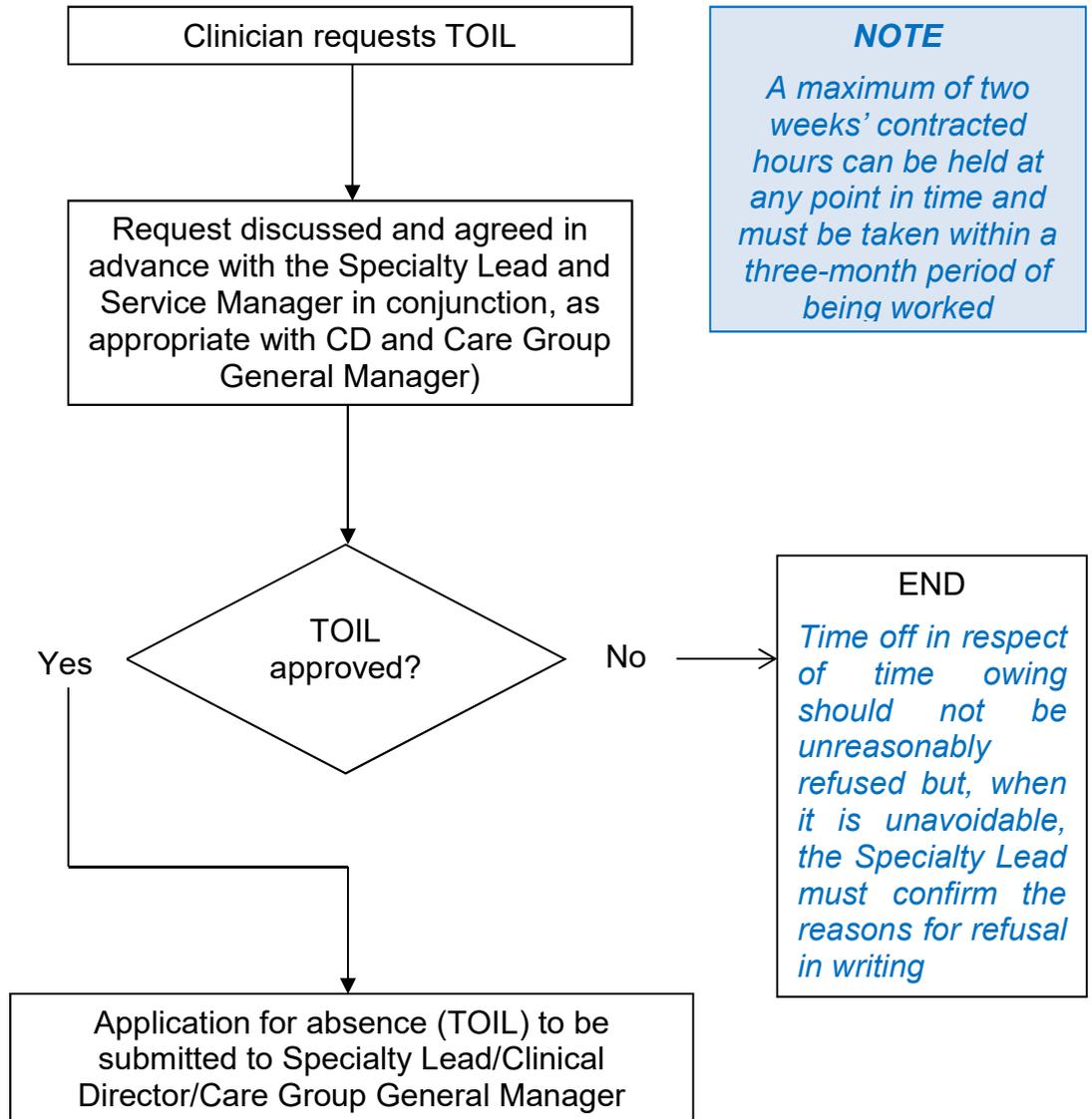
**October 2020**

# Summary

## The Management of Time off in Lieu



## Applying for Time Off in Lieu (TOIL)



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### **Data Protection Act 2018 (General Data Protection Regulation – GDPR) Legislation**

The Trust has a duty under the DPA18 to ensure that there is a valid legal basis to process personal and sensitive data. The legal basis for processing must be identified and documented before the processing begins. In many cases we may need consent; this must be explicit, informed and documented. We cannot rely on opt out, it must be opt in.

DPA18 is applicable to all staff; this includes those working as contractors and providers of services.

For more information about your obligations under the DPA18 please see the *Information Use Framework Policy* or contact the Information Governance Team  
[rch-tr.infogov@nhs.net](mailto:rch-tr.infogov@nhs.net)

## 1. Introduction

- 1.1. The Trust recognises that there are occasions when its medical and dental staff may be asked to work additional hours over and above the normal contracted hours contained in their job plan in order to meet the needs of the service.
- 1.2. The Trust also recognises that staff may wish to have the choice of taking time off in lieu (TOIL) as opposed to being paid for any additional hours worked.
- 1.3. Any additional work undertaken should be voluntary and have due regard to the reasonableness of the request being made to work additional hours and the health and well-being of the individual/team.
- 1.4. The Trust expects any planned additional hours worked to comply with the requirements of the Working Time Regulations.
- 1.5. Although it does not directly increase capacity for service delivery, TOIL is a useful measure to help the Trust re-distribute capacity to ease pressure on services during exceptionally busy periods and therefore may be helpful to the service too.

## 2. Purpose of this Policy/Procedure

- 2.1. The purpose of the policy is to provide:
  - staff with additional flexibility subject to the requirements of the service, and
  - clarity to Care Groups on how short-term time off in lieu (TOIL) can be accrued and taken.
- 2.2. The policy also sets out the procedure to be followed when staff have opted to take TOIL rather than pay as recompense for working additional hours.

## 3. Scope

The policy applies to all substantive consultants and SAS doctors.

## 4. Definitions / Glossary

- **TOIL** - time off in Lieu (TOIL) is defined as the time taken off from work as recompense for additional hours that have been worked over and above an employee's contracted hours.

The TOIL procedure is a structured way of recompensing staff but can only be used with the agreement of their manager where the need has been demonstrated in order to support the individual, team and/or service as a whole.

## 5. Ownership and Responsibilities

### 5.1. Role of the Medical Director

The Medical Director is responsible for ensuring the correct implementation of the policy and its regular review.

## **5.2. Role of the Care Group General Manager and Clinical Director**

The Care Group General Manager together with the Clinical Director is jointly responsible for:

- ensuring that the policy is communicated effectively within the care group
- ensuring appropriate and consistent application
- in conjunction with the Specialty Lead, approving applications to accrue TOIL prior to any additional clinical hours' activity being undertaken, and
- approving requests to take TOIL
- monitoring the effectiveness of the policy and highlighting points to review with the Medical Director.

## **5.3. Role of Specialty Leads and Service Managers**

Specialty Leads and Service Managers are responsible for:

- ensuring that staff members are aware of the policy and their responsibilities under it
- with reference to the Care Group General Manager and Clinical Director as appropriate, ensuring TOIL is accrued only on pre-agreed activity, and approving requests to take TOIL
- implementing the policy, ensuring that staff do not exceed a reasonable number of additional hours worked and that TOIL is taken back within the time periods stated within the policy
- ensuring the Working Time Regulations (WTRs) are adhered to and that adequate monitoring arrangements are in place
- reminding staff of the importance of accurately recording the pre-agreed hours worked and TOIL taken.

## **5.4. Role of Individual Staff**

All staff members are responsible for:

- complying with the principles of this policy
- agreeing with Service Managers and Specialty Leads the accrual of TOIL before the additional work occurs
- accurately recording the pre-agreed additional hours actually worked
- agreeing a mutually agreeable time to take TOIL with the Specialty Lead and Service Manager and Clinical Director and Care Group Manager as appropriate.

# **6. Standards and Practice**

- 6.1. All time accrued must be accurately recorded in a timely manner and be authorised by the Service Manager or Specialty Lead (or Clinical Director/ Care Group Manager as appropriate).

- 6.2. TOIL should only be accrued in relation to the *Remuneration for Additional Clinical Activity* policy or, as is allowed under the policies on *Remuneration for Additional Hours and Unpredictable Work to Cover Absent Colleagues* and *Acting Down for Consultants and Career Grade Medical and Dental Staff*.
- 6.3. The commencement of this work should be carried out in accordance with those policies using the relevant forms.
- 6.4. Time off in lieu can be accrued in the following ways:
  - remuneration for clinical activity - one for one basis ie, one hour TOIL for one hour worked
  - cover for absent colleagues - two for one basis given that this policy should be enacted in exceptional circumstances only, to provide temporary cover, one PA for 24-hours' cover and two PAs for time worked
  - acting down to cover junior colleagues - two for one basis given that this policy should be enacted in exceptional circumstances only, to provide temporary cover, one PA for 24-hours' cover and two PAs for time worked.
- 6.5. Time worked over 15 minutes will count as TOIL.
- 6.6. A maximum of two weeks' contracted hours of TOIL can be held at any point in time. TOIL must be taken within three months of the additional work being undertaken.
- 6.7. All requests to take TOIL must be authorised and recorded by the Specialty Lead and Service Manager (or Clinical Director/Care Group Manager as appropriate).
- 6.8. Retrospective agreement to work additional hours will only exceptionally be given where it is recognised that there was a clear and urgent service need. In this case the reasons must be recorded and signed off by the Care Group General Manager or the Clinical Director and staff member.
- 6.9. Requests to take TOIL should not be unreasonably refused. However, where this is unavoidable, it will not result in a loss of hours.
- 6.10. Absences resulting from TOIL cannot restrict other staff from taking annual leave. If leave is restricted after a set number of the rota group is absent, absence resulting from TOIL does not contribute to that calculation.
- 6.11. Work undertaken from home will not be reimbursed as TOIL unless previously authorised by the Care Group General Manager or the Clinical Director.
- 6.12. Members of staff who are unable to take TOIL within three months must be paid in line with the relevant policy for the work undertaken. Audits of accrued hours will be undertaken by Care Groups in September and February each year to ensure that the Trust does not hold significant levels of TOIL at year end.

6.13. The job plans of individuals who find they are regularly working over and above their contractual hours will be reviewed.

## 7. Dissemination and Implementation

7.1. A copy of the policy will be stored electronically in the Medical Staffing section of the HR folder on the Trust's document library.

7.2. A copy of the policy will be circulated to the Medical Staffing, People Partner, Employee Relations, Payroll and Finance teams to enable them to participate in and support the implementation of the policy.

7.3. The Chair of the JLNC will be advised of the issue of the policy.

## 8. Monitoring compliance and effectiveness

Element to be monitored	1. Additional clinical hours' activity worked on an individual, specialty and Care Group basis. 2. Hours taken as TOIL. 3. Accrued hours' audit.
Lead	Care Group General Manager
Tool	Care Group TOIL data base
Frequency	Monthly (1 & 2) September and February (3)
Reporting arrangements	Care Group Reports.
Acting on recommendations and Lead(s)	The Medical Director (or nominated deputies) will be responsible for ensuring that appropriate recommendations for changes in practice are acted upon within reasonable time-frames.
Change in practice and lessons to be shared	If the policy is found to impact on their services, Care Group General Managers, Clinical Directors and the Medical Director will meet to discuss proposed changes to the approval arrangements. Required changes in practice, and lessons to be shared, will be identified and actioned within three months. A lead member of the team will be identified to take each change forward as appropriate. Lessons will be shared with all the relevant stake-holders, Executive Board and JLNC.

## 9. Updating and Review

9.1. All policy documents should be reviewed no less than every three years. Where appropriate, the author may set a shorter review date.

9.2. Revisions can be made ahead of the review date when the procedural document requires updating. Where the revisions are significant and the overall policy is changed, the author should ensure the revised document is taken through the standard consultation, approval and dissemination processes.

9.3. Where the revisions are minor, eg amended job titles or changes in the organisational structure, approval can be sought from the Executive Director responsible for signatory approval, and can be re-published accordingly without having gone through the full consultation and ratification process.

## **10. Equality and Diversity**

10.1. The Royal Cornwall Hospitals NHS Trust is committed to a policy of equal opportunities in employment. The aim of this policy is to ensure that no job applicant or employee receives less favourable treatment because of their race, colour, nationality, ethnic or national origin, or on the grounds of their age, gender, gender reassignment, marital status, domestic circumstances, disability, HIV status, sexual orientation, religion, belief, political affiliation or trade union membership, social or employment status or is disadvantaged by conditions or requirements which are not justified by the job to be done. This policy concerns all aspects of employment for existing staff and potential employees.

10.2. The Equality Impact Assessment Form is at Appendix 2.

## Appendix 1. Governance Information

<b>Document Title</b>	Consultant and SAS Doctor Short-Term Time Off in Lieu (TOIL) Policy V1.0		
<b>This document replaces (exact title of previous version):</b>	New Document		
<b>Date Issued/Approved:</b>	October 2020		
<b>Date Valid From:</b>	October 2023		
<b>Date Valid To:</b>	October 2023		
<b>Directorate / Department responsible (author/owner):</b>	Gill Derrick, Deputy Medical Director Helen Strickland, Policies and Projects Adam Wheeldon, Deputy Director of Finance		
<b>Contact details:</b>	01872 252267		
<b>Brief summary of contents</b>	This policy sets out the Trust's arrangements for the accrual and taking of TOIL (time off in lieu) for additional hours worked.		
<b>Suggested Keywords:</b>	TOIL, time off in lieu, additional hours		
<b>Target Audience</b>	RCHT	CFT	KCCG
	✓		
<b>Executive Director responsible for Policy:</b>	Medical Director		
<b>Approval route for consultation and ratification:</b>	<ul style="list-style-type: none"> <li>▪ Executives</li> <li>▪ JLNC</li> <li>▪ PRG</li> </ul>		
<b>General Manager confirming approval processes</b>	Acting Head of Medical Staffing		
<b>Name of Governance Lead confirming approval by specialty and care group management meetings</b>	Helen Strickland		
<b>Links to key external standards</b>	None		
<b>Related Documents:</b>	<ul style="list-style-type: none"> <li>▪ Acting Down for Consultants and Career Grade Medical and Dental Staff Policy</li> <li>▪ Countering Fraud and Corruption against the National Health Service Policy</li> <li>▪ Employment Break Policy</li> <li>▪ Flexible Working and Work Life Balance Policy</li> <li>▪ Remuneration for Additional Clinical Activity</li> <li>▪ Remuneration for Additional Hours and Unpredictable Work to Cover Absent Colleagues</li> <li>▪ Special Leave Policy</li> <li>▪ Working Time Regulations Policy</li> </ul>		

<b>Training Need Identified?</b>	No		
<b>Publication Location (refer to Policy on Policies – Approvals and Ratification):</b>	Internet & Intranet	✓	Intranet Only
<b>Document Library Folder/Sub Folder</b>	e.g. Human Resources/Medical Staffing		

### Version Control Table

<b>Date</b>	<b>Version No</b>	<b>Summary of Changes</b>	<b>Changes Made by (Name and Job)</b>
October 2020	V1.0	New document.	Gill Derrick, Deputy Medical Director Adam Wheeldon, Deputy Director of Finance Helen Strickland, Policies and Projects

**All or part of this document can be released under the Freedom of Information Act 2000**

**This document is to be retained for 10 years from the date of expiry.**

**This document is only valid on the day of printing**

### **Controlled Document**

This document has been created following the Royal Cornwall Hospitals NHS Trust Policy for the Development and Management of Knowledge, Procedural and Web Documents (The Policy on Policies). It should not be altered in any way without the express permission of the author or their Line Manager.

## Appendix 2. Equality Impact Assessment

<b>Section 1: Equality Impact Assessment Form</b>						
<b>Name of the strategy / policy / proposal / service function to be assessed</b> Consultant and SAS Doctor Short-Term Time Off in Lieu (TOIL) Policy V1.0						
<b>Directorate and service area:</b> Human Resources/Medical Staffing			<b>Is this a new or existing Policy?</b> New			
<b>Name of individual/group completing EIA</b> Helen Strickland			<b>Contact details:</b> 01872 258594			
1. Policy Aim Who is the strategy / policy / proposal / service function aimed at?		The policy aims to provide guidance to managers and staff on the procedure for the accrual and taking of TOIL.				
2. Policy Objectives		To detail the process for the accrual and taking of TOIL.				
3. Policy Intended Outcomes		To provide flexibility for medical and dental staff and the Trust.				
4. How will you measure the outcome?		Please see Section 8 of the policy entitled, 'Monitoring compliance and effectiveness'.				
5. Who is intended to benefit from the policy?		Medical and Dental staff, the Trust				
6a). Who did you consult with?		Workforce	Patients	Local groups	External organisations	Other
		✓				
b). Please list any groups who have been consulted about this procedure.		<b>Please record specific names of groups:</b> <ul style="list-style-type: none"> <li>▪ Executives</li> <li>▪ JLNC</li> <li>▪ PRG</li> </ul>				
c). What was the outcome of the consultation?		No issues of concern identified.				

<b>7. The Impact</b>				
Please complete the following table. If you are unsure/don't know if there is a negative impact you need to repeat the consultation step.				
Are there concerns that the policy <b>could</b> have a positive/negative impact on:				
Protected Characteristic	Yes	No	Unsure	Rationale for Assessment / Existing Evidence
<b>Age</b>		✓		The policy applies to all consultants and career grade doctors, regardless of age.
<b>Sex</b> (male, female non-binary, asexual etc.)		✓		The policy applies to all consultants and career grade doctors, regardless of sex.
<b>Gender reassignment</b>		✓		The policy applies to all consultants and career grade doctors, regardless of gender assignment.
<b>Race/ethnic communities /groups</b>		✓		The policy applies to all consultants and career grade doctors, regardless of race.
<b>Disability</b> (learning disability, physical disability, sensory impairment, mental health problems and some long term health conditions)		✓		The policy applies to all consultants and career grade doctors, regardless of disability.
<b>Religion/ other beliefs</b>		✓		The policy applies to all consultants and career grade doctors, regardless of religion and belief.
<b>Marriage and civil partnership</b>		✓		The policy applies to all consultants and career grade doctors, regardless of marriage and civil partnership.
<b>Pregnancy and maternity</b>		✓		The policy applies to all consultants and career grade doctors, regardless of pregnancy and maternity.
<b>Sexual orientation</b> (bisexual, gay, heterosexual, lesbian)		✓		The policy applies to all consultants and career grade doctors, regardless of sexual orientation.
<p><b>If all characteristics are ticked 'no', and this is not a major working or service change, you can end the assessment here as long as you have a robust rationale in place.</b></p> <p>I am confident that section 2 of this EIA does not need completing as there are no highlighted risks of negative impact occurring because of this policy.</p>				
<b>Name of person confirming result of initial impact assessment:</b>			Helen Strickland	
<p><b>If you have ticked 'yes' to any characteristic above OR this is a major working or service change, you will need to complete section 2 of the EIA form available here:</b></p> <p><a href="#">Section 2. Full Equality Analysis</a></p> <p><b>For guidance please refer to the Equality Impact Assessments Policy (available from the document library) or contact the Human Rights, Equality and Inclusion Lead <a href="mailto:debby.lewis@nhs.net">debby.lewis@nhs.net</a></b></p>				