



# DEPARTMENT FOR CORRECTIONAL SERVICES

## CHIEF EXECUTIVE INSTRUCTION 20-05

This Chief Executive Instruction (CEI) supersedes previous correspondence regarding Flexitime.

**GENERAL** distribution to:

- GENERAL MANAGERS
- REGIONAL DIRECTORS
- EXECUTIVE DIRECTORS
- CENTRAL OFFICE DIRECTORS
- BUSINESS CENTRE MANAGERS

### RE: FLEXITIME MANAGEMENT, MEAL BREAKS AND RECORD KEEPING REQUIREMENTS

This instruction provides a “management” direction and advice to Managers on the process for managing Flexitime, Meal Breaks and Record Keeping Requirements. Flexitime is separate from overtime and time off in lieu (TOIL) provisions.

The flexitime arrangements outlined in this direction do not apply retrospectively.

#### INDUSTRIAL PROVISIONS

The *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017* (“EA 2017”) was approved on 31 January 2018. Clause 25 of the EA 2017 contains provisions for flexitime.

Clause 6.6 of the *S.A. Public Sector Interim Employees Interim Award* (“the Award”) also contains provisions regarding flexitime arrangements.

On 1 July 2017, the Commissioner for Public Sector Employment issued a new Commissioner’s Determination and Guideline: Flexible Workplaces to assist in creating a more flexible, diverse and inclusive South Australian public sector workforce. Flexitime provisions are contained in the Guideline.

The Determination and Guideline is designed to complement Commissioner’s Determination 3.1: Employment Conditions – Hours of Work, Overtime and Leave.

The requirements outlined in the EA 2017, Commissioner’s Determinations and Guidelines must be met by Managers when determining flexitime arrangements. Further advice may be sought from Workforce Management, People and Business Services (P&BS).

#### MANAGEMENT OF FLEXITIME

Working flexitime is a privilege that enables employees to start and finish within a range of prescribed hours. It is not an entitlement and needs to be closely monitored by management to ensure that the hours accrued by employees does not become excessive.

Flexitime arrangements do not apply to 7 day (38 hour) week employees and any other employees rostered within Microster.

## GENERAL PROVISIONS

### Flexitime and Bandwidth Hours

- An application for a flexitime arrangement by an eligible employee working within DCS is made on the attached Flexitime Agreement and forwarded to their Manager in accordance with the Human Resources Delegations and Authorisations Framework, 7.16.1 for approval.
- A maximum of 15 hours flexitime per 4 week (150 hours) accounting period may be accrued and carried over to the next accounting period. Managers must ensure this is adhered to.
- The accrual of the maximum 15 hours flexitime credit requires the completion of the Flexitime Agreement and the relevant Delegate to monitor the hours accrued to ensure that they do not impact on the effective operation of the business.
- The Flexitime Agreement is valid for the financial year.
- The 'bandwidth' is 08.00-18.00 – earlier or later start / finish times may be pursued through individual Flexitime Agreements as detailed in the Commissioner's Determination and Guideline: Flexible Workplaces.
- A 30 minute meal break must be taken between 12.00 and 14.00 and within 5 hours of commencing work that day – the lunch break may be extended up to a maximum of 2 hours with prior approval, but employees must return to work by 14.00.
- Any special working arrangements (including requested changes to earlier start or later finish times) need to be documented in the Flexitime Agreement by the employee.
- Maximum hours to be working in any one day are 9.5 hours.
- Flexitime credit is the hours accrued in excess of ordinary hours and within bandwidth hours.

### Applying and Taking of Accrued Flexitime

- A maximum 2 full days (or equivalent) per 4 week accounting period may be taken as flexitime.
- An employee must obtain the approval of their manager to take accrued flexitime or to be absent within the bandwidth hours. Management approvals for the taking of accrued flexitime should be recorded in writing (an email from the manager to the employee concerned confirming the approval and date of the flexitime to be taken is sufficient). The written approval should be attached to the hard copy of the electronic DCS Flexible Working Hours' Time Recording Sheet ("Timesheet") pertaining to the employee who has taken the accrued flexitime in order to ensure a record is kept.
- Each employee must take responsibility for ensuring start, finish and break times are appropriately recorded and verified. The Timesheet is the mechanism for recording and verifying the times.
- Flexitime debit must not exceed 10 hours in any one 4 week accounting period, and the debit may be carried forward for one 4 week accounting period only.
- A flexitime debit (any amount) cannot be carried forward at the end of two consecutive 4 week accounting periods. If this occurs, pay will be deducted corresponding to the debit hours and the flexitime balance will be returned to zero.
- A flexitime arrangement can be suspended or altered at short notice to suit operational requirements and service delivery needs. Employees who contravene the provisions may be excluded from flexitime for a fixed period.



## Flexitime with Prior Approval of Management to Meet Workload Demands

- An employee may accrue **in excess of 15 hours** flexitime (with the prior written approval in accordance with the DCS HR Delegations and Authorisations Framework) in a 4 week accounting period before being subject to a direction to take the accrued flexitime (**refer clause 25.2.5 of the EA 2017**).
- Any approval to allow the accrual of flexitime beyond the 15 hours per 4 week accounting period may only occur with the prior written approval of the relevant delegate detailing the exact circumstances. A copy of the written approval should be attached to the Timesheet to ensure that a record is kept.
- An employee must take the flexitime credit, at a time agreed with the relevant delegate, within 3 months of accrual. If the flexitime credit has not been taken within 3 months of accrual, management can direct the employee to take the time (**refer clause 25.2.5 of the EA 2017**).
- Where an employee has not been given the opportunity to reduce their flexitime in accordance with clause 25.2.3, the employee may apply to the relevant delegate to convert the excess flexitime credit into payment at their ordinary rate of pay (**refer clause 25.2.6 of the EA 2017**).

## **TIMESHEETS**

It is a mandatory requirement that timesheets are completed by all staff, except those employees working a 7 day (38 hour) week and any other employees rostered within Microster.

When forwarding a completed Timesheet to the Manager/Supervisor, an employee will need to ensure that all relevant documentation is attached. This may include copies of any formal approvals granted such as:

- the taking of accrued flexitime during the 4 week period;
- the accrual of flexitime in excess of 15 hours detailing the amount of hours approved and reason(s); and
- any other documentation used locally to support the information on the Timesheet for audit purposes.

The processes for managing the accrual of flexitime in excess of 15 hours per 4 week accounting period with prior approval should be documented outside of the flexitime sheet. A copy of the written approval should be attached to the Timesheet to ensure that a record is kept for audit purposes.

Flexitime instructions are attached to the Timesheet to facilitate the above process.

## **MEAL BREAKS**

In accordance with the provisions of the Award and the EA 2017, a minimum unpaid meal break of 30 minutes per day is to be taken by all employees, which time will not count as part of an employee's ordinary working hours.

Clause 36.2 of the EA 2017 states that no employee will be required to work more than 5 hours without such a break, except where the employee is subject to the following arrangements:

- the employee is employed for not more than 6 hours per day;
- there is a need, or the employee **elects** to maintain continuity of active duty, care or service provision;
- the employee is subject to a working arrangement that provides for a crib break; or
- the employee has an arrangement approved by the Chef Executive to accommodate the employee's personal circumstances or a request by the employee for a flexible working arrangement.



Clause 36.3 of the EA 2017 provides for a payment of an additional 50% of the employee's ordinary hourly rate when an employee is required by an authorised person to work more than 5 hours without a meal break. The additional 50% payment applies until the employee is provided with a meal break.

## RECORDING OF MEAL BREAKS

### Duration of Meal Break

If an employee enters less than 30 minutes for a meal break on the Timesheet, an error message and code appears stating that the lunch period is less than 30 minutes. Once the Afternoon Finish time is entered, the Daily Total does not appear and the Flexi Balance is reduced accordingly i.e. no hours worked for the day are recorded. The employee is unable to print the Timesheet (via the print button on the Timesheet) for approval by the Supervisor/Manager until the error is corrected. Therefore the onus is for the employee to record a minimum 30 minutes meal break (regardless if they took less) before presenting the Timesheet to the Supervisor/Manager for authorisation.

*Note: If an employee enters less than 30 minutes for a meal break on the Timesheet, the Timesheet can be printed by selecting the Print option on the File menu, but no hours worked are recorded in the Daily Total and an error code (E1) is detailed on the right side of the daily entry.*

If in exceptional circumstances, a Manager directs an employee to take less than 30 minutes for a lunch break, the employee needs to enter the balance of the 30 minutes not taken as Other Adjustments (OA) in the Adjustments Hours column to credit the untaken minutes to their Flexi Balance. In this case, the employee will need to attach a note to the Timesheet to explain the reason for crediting their Flexi Balance.

### Timing of the Meal Break

An employee is able to enter a Morning Finish time in excess of 5 hours after the Morning Start time on the Timesheet without an error occurring. However, a Supervisor/Manager must only **require** an employee to work more than 5 hours without a meal break in the exceptional circumstances prescribed in Clause 36.2 of the EA 2017.

If an employee **elects** to work in excess of 5 hours without a meal break, the employee must note this election on the Timesheet and the Supervisor/Manager must authorise the employee's election on the Timesheet. If these notations by the employee and the Supervisor/Manager are not made on the Timesheet, the Supervisor/Manager is exposing DCS to a risk of the employee making a claim for the payment of a 'no lunch penalty' in the future. In these cases, Managers and Supervisors need to remind the employee of their obligation to take a minimum 30 minute meal break within 5 hours of their start time in line with EA 2017 provisions.

## RECORD KEEPING REQUIREMENTS FOR TIMESHEETS

Under the *South Australian State Records Act, 1997* timesheets are to be kept for 7 years after the last action taken on the document.

Timesheets should be kept at the workgroup location in a corporate file and destruction of these records can only occur in consultation with the Records Management Unit (RMU).

Further assistance can be sought from Workforce Management, People and Business Services.



**DAVID BROWN**

Chief Executive

Approved: 20 / 02 / 2020

CONTROLLED DOCUMENT. This must be returned to an Executive Officer for finalisation.	
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