NHS
Kernow
Clinical Commissioning Group

Secondary employment policy

Date approved: 27 May 2021

This policy was adopted by NHS Cornwall and Isles of Scilly Integrated Care Board (ICB) on 1 July 2022.

We are working to change the branding on our policies and to make sure they are accessible.

We intend to complete this work by 1 April 2023. While this work is underway, all references to NHS Kernow, the CCG and related structures should be taken to relate to the ICB.

This policy may not be suitable for users of assistive technology. If you use assistive technology (such as a screen reader) and need a version of this document in a more accessible format, please email ciosicb.corporategovernance@nhs.net. Please tell us what format you need. It will help us if you say what assistive technology you use.

Document control sheet

Title of document: Secondary employment policy
Originating directorate: Finance
Originating team: People and organisational development
Document type: Policy
Subject category: Secondary employment
Author(s) name: Tricia Phillips
Date ratified: 27 May 2021
Ratified by: People board
Review frequency: 3 years from date of ratification
To be reviewed by date: 27 May 2024
Target audience: All colleagues
Can this policy be released under FOI? Yes

Version control

Version number	Revision date	Revision by	Nature of revisions
V2	19/02/2021	People and organisational development team member	Review for minor update and for accessibility guidelines
V2.1	27/05/2021		Policy ratified by People board
V2.2	October 2021	POD team	Final accessibility checks completed

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Introduction

NHS Kernow Clinical Commissioning Group (NHS Kernow) recognises that in some instance's colleagues take on employment with other organisations. NHS Kernow believes that it is acceptable for colleagues to hold other contracts, providing they do not interfere with their duties within NHS Kernow.

Secondary employment is any additional work a colleague undertakes, or is planning to undertake, for another employer or work they may undertake as a self-employed person or as the partner of a self-employed person. Secondary employment also covers any additional employment within NHS Kernow which is over and above a colleague's contracted hours (this includes any bank and zero hours work).

Purpose

The aim of this policy is to provide guidance to colleagues relating to the undertaking of secondary employment. It aims to ensure that colleagues do not engage in other paid work that may conflict with or affect their performance or attendance under their contract of employment with NHS Kernow. Permissions will be granted consistently and fairly, regardless of the protected characteristics of the colleague concerned. Permission to undertake secondary employment will be determined on an individual basis, taking into consideration the needs of the service. It also aims to prevent colleagues, and or, NHS Kernow, contravening legislation on working times and hours including the total hours worked and breaks between work periods and annual leave.

The policy applies to all colleagues and potential colleagues of NHS Kernow.

Definitions

Working time regulations

Legislation that puts a limit on an individual's working hours.

IRIS

IRIS is the place on the intranet where people and organisational development (POD) documents are available.

Document library

The document library provides access to the governed and ratified document types such as policies, protocols, guidelines, reports and strategies. We also store our patient information leaflets and posters and a number of internal documents such as staff survey results, staff engagement work and internal newsletters here. Internal documents cannot be seen by members of the public.

Responsibilities

People and organisational development

- Advise colleagues and line managers on the policy.
- Ensure the policy is kept up to date.
- To test effectiveness of the policy.
- To raise awareness about the policy.

Line manager

- Decide whether an application for secondary employment is appropriate.
- Ensure colleagues are aware of this policy.
- Highlight concerns about fraud to the POD or fraud teams.

The individual

- Apply for permission for secondary employment as soon as practically possible.
- Inform their manager when circumstances change.
- Ensure that their performance is not adversely affected.
- Comply with the working time regulations.

Occupational health

- Retain records of the secondary employment.

Policy statement

NHS Kernow will permit colleagues to undertake additional work providing NHS Kernow is satisfied that this does not conflict with the:

- interests of NHS Kernow
- performance of the colleague's normal duties
- requirements of the working time regulations

If a colleague holds 2 concurrent posts within NHS Kernow, they will be expected to have due regard to the needs of both posts and balance those needs. Similarly, if they hold secondary employment outside of NHS Kernow, they will need to ensure that performance in their job within NHS Kernow is not affected.

Where 2 concurrent posts are held within NHS Kernow and performance is affected due to the additional work, both posts will be considered when reviewing performance.

Procedure

All colleagues wishing to take up secondary employment or already undertaking secondary employment, either within NHS Kernow, or with another employer, must notify their line manager and complete the secondary employment form in appendix 1 prior to accepting/ continuing secondary employment.

This applies to colleagues who are absent from work for extended period including colleagues, for example, on maternity leave, paternity leave, adoption leave, parental leave, shared parental leave, special leave, sickness absence and agreed employment breaks and should be read in conjunction with the appropriate policy.

The form must be signed by their line manager and will be placed on their personal file, added to a central record of secondary employment maintained by the POD team and a copy sent to occupational health so the colleague's medical record can be updated. The agreement will remain in place until terminated by NHS Kernow or the individual.

Permission to undertake secondary employment will not be refused without good reason.

However, if it is deemed that the secondary employment is against the interests of NHS Kernow, then agreement is likely to be refused, grounds for refusing a request must be based in sound business reasons including, for example:

- detrimental effect on ability to meet service demands
- detrimental impact on quality of work
- detrimental impact on performance
- planned structural changes likely to affect the requirements of the post

A request may also be refused where there are concerns, under NHS Kernow's general duty of care towards the colleague, that undertaking secondary employment could adversely impact the colleague's health and wellbeing. Advice from occupational health should always be sought prior to any refusal on the grounds of health and wellbeing. Colleagues have the right to appeal against a refusal through NHS Kernow's grievance and dignity at work policy.

It is the colleague's responsibility to notify their line manager immediately if the secondary employment ceases or changes such as in the number of hours worked or pattern of shifts. Colleagues must also advise their line manager if the duties and responsibilities associated with their secondary employment become more demanding and especially if it could lead to a conflict of interest with their work for NHS Kernow.

Failure to comply with the above procedure may result in disciplinary action. This action may include informing the anti-crime specialist. Please refer to NHS Kernow's disciplinary policy for further details.

Working time regulations

Colleagues are required to comply with the provisions of the working time regulations. This includes declaration of hours worked and breaks taken, completing written records if required, and reporting any instances where their pattern of work may constitute a health and safety risk to themselves, patients, persons visiting NHS Kernow's premises, the public generally or other NHS Kernow colleagues.

Sickness

Colleagues must refrain from secondary employment if they are on sick leave unless they have prior permission and express consent from their line manager. Permission will not be given where the secondary work is:

- the same, or similar to, the colleague's main employment
- detrimental to their recovery
- detrimental to NHS Kernow.

Working for another employer whilst in receipt of sick pay from NHS Kernow could be considered fraud and as such may be investigated in accordance with the anti-fraud and bribery policy.

If in doubt, colleagues should seek guidance from their line manager, with the POD team providing advice and guidance as required.

Attendance and time keeping

Any adverse impact on attendance and or time keeping attributable to secondary employment will be investigated under NHS Kernow's disciplinary procedure and the anti-fraud and bribery policy.

Capability and performance

Where a colleague undertakes secondary employment, it is their responsibility to ensure that their performance in their primary post is not affected. Any adverse impact on performance attributable to their secondary employment will be investigated under NHS Kernow's performance and or disciplinary policies.

Appraisals, performance and development reviews

As part of your role with NHS Kernow you will be expected to undertake regular discussions to set objectives, review progress and identify support and development linked to those objectives. It is acknowledged that for some colleagues there will be requirements from their professional bodies or nationally established frameworks that must be adhered to. NHS Kernow's expectations for appraisals, objective setting and

reviews will be relevant to the context and role with NHS Kernow rather than duplicate other requirements.

You have a responsibility to inform your line manager of any concerns which are raised outside of the employment NHS Kernow which may impact on your role with NHS Kernow.

Implementation plans and monitoring effectiveness

Implementation will include the following:

- a copy of the policy will be stored electronically in IRIS
- a copy of the policy will be circulated to members of the POD team
- the directors, unions and staff voice will be advised of the issue of the revised policy
- it will be included in management training where appropriate
- the POD team will monitor effectiveness

A clear communication will be sent to all colleagues to make them aware that the revised policy has been issued and that they are responsible for familiarising themselves with it.

Update and review

This policy has been agreed by staff voice, management and staff-side representatives and circulated for comment to all colleagues via communications.

The policy will be reviewed every 3 years or earlier in view of developments which may include legislative changes, national policy instruction (NHS or department of health) or board decision.

Policies referred to in this document

- Grievance and dignity at work
- Disciplinary policy and procedure
- Anti-fraud and bribery policy
- Performance policy
- Time off policy

Appendix 1: Secondary employment form

You must complete this document in full and retain a copy for your own records. Please ensure that the original is forwarded to your manager who will be responsible for retaining this on your personal file. A copy will also be sent to occupational health.

Personal information in relation to employment with NHS Kernow

Name:
Contact number:
Post title:
Grade:
Hours per week:
Home address:
Work location:
Days worked and pattern of work:
Line manager:
Contact number:

Secondary employment information

Indicate type of work:
Name of employer or business:
Address of employer or business:
Line manager:
Contact number:
Hours per week:
Days worked and pattern of work:
Type of work:

Nature of work:

Additional information

Have you any reason to believe that there will be instances where your secondary employment will conflict with your work at NHS Kernow?

Conflict in this instance is taken to mean a conflict in time or performance demands or of interest: for example, your NHS Kernow work involves ordering goods or services from your secondary employer)

If yes, please provide further details below:

I state that the above information is correct and that secondary employment in this instance will not have a detrimental effect on my work at NHS Kernow. I will inform my line manager if there are any changes to the above. I understand that false or misleading information given on this form could be treated as gross misconduct or fraud and dealt with under NHS Kernow's disciplinary policy and procedure and anti-fraud and bribery policy.

Signature:

Date:
Print name:
Job title:

I agree / do not agree (delete as appropriate) to the colleague taking on secondary employment in accordance with the above information.

Line manager signature:

Date:
Print name:
Job title:

Brief reasons for agreement (if appropriate):

Brief reasons for refusal (if appropriate):

Appendix 2: Equality impact assessment

Name of policy or service to be assessed: Secondary employment policy
Department or section: People and organisational development
Date of assessment: 19 February 2021
Person(s) responsible for the assessment: Tricia Phillips
Is this a new or existing policy? Existing

Aims, objectives and purpose of the policy

Describe the aims, objectives and purpose of the policy

To provide guidance to colleagues relating to undertaking secondary employment.

Who is intended to benefit from this policy, and in what way?

All colleagues and potential colleagues of NHS Kernow.

What outcomes are wanted from this policy?

To ensure consistency and fairness in the application of the policy.

What factors or forces could contribute or detract from the outcomes?

Poor communication and awareness of the notification process. The decision making about whether to agree to secondary employment should not be affected by the protected characteristics of the person making the request or application.

Who are the main stakeholders in relation to the policy?

All colleagues of NHS Kernow and their staff side representatives.

Who implements the policy, and who is responsible for the policy?

Managers, supervisors, and the POD team.

Differential impacts

Perspective of race, nationality and or ethnic origin

Does this have a positive or negative impact on black, Asian and minority ethnic (BAME)?

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Perspective of sex

Does this have a positive or negative impact on people who identify as male, female or intersex?

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Perspective of disability

What is the positive or negative differential impact on people from the perspective of disability?

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Perspective of sexual orientation

Does this have a positive or negative impact on people who identify as heterosexual, lesbian, gay, bisexual, pansexual or asexual?

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Perspective of age

What is the positive or negative differential impact on people from the perspective of age?

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Perspective of religion or belief

What is the positive or negative differential impact on people from the perspective of religion or belief?

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Perspective of marriage and civil partnership

What is the positive or negative differential impact on people from the perspective of marriage and civil partnership? This is particularly relevant for employment policies.

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Perspective of gender re-assignment

Does this have a positive or negative impact on people who identify as trans or transgender, non-binary or gender fluid?

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Perspective of pregnancy and maternity

Does this have a positive or negative impact on people who are pregnant, breast feeding mothers, or those on maternity leave?

The existence of this policy and procedure should ensure that NHS Kernow, through its managers, adopts a consistent approach to dealing with secondary employment issues for all colleagues including individuals covered by protected characteristics.

How will any negative impact be mitigated?

Not applicable.

Other identified groups

No other groups were identified

How will any negative impact be mitigated?

Not applicable.

Human rights values

How have the core human rights values of fairness, respect, equality, dignity and autonomy been considered in the formulation of this policy, service or strategy?

Through a series of management updates via the intranet and guidance or best practice information from the POD team.

Which of the human rights articles does this document impact?

☐ To life
☐ Not to be tortured or treated in an inhuman or degrading way
☐ To liberty and security
☐ To a fair trial
☒ To respect for home and family life, and correspondence
☐ To freedom of thought, conscience and religion

☐ To freedom of expression
☐ To freedom of assembly and association
☐ To marry and found a family
☐ Not to be discriminated against in relation to the enjoyment of any of the rights contained in the European Convention
☐ To peaceful enjoyment of possessions

What existing evidence (either presumed or otherwise) do you have for this?

Secondary employment may affect family life.

How will you ensure that those responsible for implementing the policy are aware of the human rights implications and equipped to deal with them?

The POD team will offer advice

Public Sector (Social Value) Act 2012

NHS Kernow is committed and obliged to fulfil the requirements of the Public Sector (Social Value) Act 2012. This Act requires the organisations to consider how services commissioned or procured might improve the economic, social and environmental wellbeing of an area.

Please describe how this will support and contribute to the local system, wider system and community.

Please consider:

- The inclusion of small medium size enterprises (SMEs) in the process and supply chain
- Economic – promote skills, tackle worklessness, maintain employment, increase volunteer hours to support the community and promote inclusion
- Social – reduce anti-social behaviour, tackle exclusion by promoting inclusion including to vulnerable groups
- Environmental – support local, reduce congestion.

This policy might contribute to tackling worklessness, maintaining employment, increasing volunteer hours to support the community and promote inclusion because it recognises that in some instance's colleagues take on employment with other organisations, paid or voluntary. It supports colleagues who might hold other contracts, providing they do not interfere with their duties within NHS Kernow.

Describe how the policy contributes towards eliminating discrimination, harassment and victimisation.

It provides a clear framework for secondary employment.

Describe how the policy contributes towards advancing equality of opportunity.

Not applicable.

Describe how the policy contributes towards promoting good relations between people with protected characteristics.

Not applicable.

If the differential impacts identified are positive, explain how this policy is legitimate positive action and will improve outcomes, services and or the working environment for that group of people.

Not applicable.

Explain what amendments have been made to the policy or mitigating actions have been taken, and when they were made.

Not applicable.

If the negative impacts identified have been unable to be mitigated through amendment to the policy or other mitigating actions, explain what your next steps are using the following equality impact assessment action plan.

Signed (completing officer): Tricia Phillips

Date: 19 February 2021

Signed (head of department or section): Emma Goudge

Date: 19 February 2021

Please ensure that a signed copy of this form is sent to both the corporate governance team with the policy and the equality and diversity lead.