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## 2.2 - Flexible working hours policy

Flexible Working Hours policy ('the Policy') has been developed to ensure organisational performance and to provide employees with greater flexibility in arranging working hours in accordance with the requirements of Clause 7 of the Crown Employees (Law Enforcement Conduct Commission) Award 2016.

Decisions regarding flexible work arrangements shall be made in an equitable, transparent and fair manner.

This Policy applies to all employees with the LECC.

Decisions regarding working hours and patterns of work will be made by the LECC taking into account the following factors:

- The operational requirements of the Commission.
- The service delivery contact hours of the Commission.
- The availability of work, as determined by the Commission, including whether the work is required to be performed at that time.
- Variable peaks of work within the Commission.
- The need to limit the working of overtime.
- Work Health & Safety and equity issues.
- Any other business requirements as may be determined by the Commission, from time to time.

**Document Control**

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## 1. Definitions

<b>Accrued Work Time or (AWT)</b>	All time worked by the Commission's employees within the bandwidth with the exception of paid overtime and meal breaks.
<b>ADO</b>	Accrued Day Off
<b>Bandwidth</b>	The period during the working day when all employees may work, record time and accrue credit for time worked.
<b>CEO</b>	Chief Executive Officer of the Law Enforcement Conduct Commission.
<b>Commission daily hours</b>	The span of hours during which the Commission's office is open and may need to respond to external and internal clients, 8:30am - 5:00pm.
<b>Contract hours</b>	For a settlement period shall be calculated by multiplying the employee's weekly contract hours by the number of weeks in a settlement period.
<b>Core time</b>	The period during the day when an employee may be required to be on duty.
<b>Employee</b>	All persons, in ongoing or temporary employment for the Commission, in either a full or a part-time capacity, under the provisions of the <i>Government Sector Employment Act 2013</i> (NSW), and who are covered by clause 7 Flexible Working Hours Scheme of the <a href="#">Award</a> . In addition, this Policy will not apply to Public Service Senior Executives of the Commission, casual employees and other employees consistent with clause 7 of the <a href="#">Award</a> .
<b>Flex leave</b>	Means a period of time that an employee may, subject to the approval of the employee's manager and the principles of this Policy, absent themselves from work within the bandwidth.
<b>Flex leave year</b>	The four (4) week settlement period that commences
<b>Flexible working hours' credit</b>	The time which exceeds the contract hours for a settlement period and is able to be accumulated under this Policy or carried over into the next settlement period.
<b>Flexible working hours' debit</b>	The debit which arises when the actual hours worked in a settlement period, including approved leave taken during the settlement period and including any carry over from the previous settlement period, are less than the contract hours for the period.
<b>LECC</b>	Law Enforcement Conduct Commission
<b>Minimum daily contract hours</b>	For full-time employees this means 7 hours of work for employees engaged on a 35 hours per week basis, excluding any meal breaks. Minimum Daily Contract Hours for part time employees will be pro-rated, unless agreed to within the part time work agreement.
<b>Settlement period</b>	Is four (4) consecutive weeks. The settlement periods for the

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	purposes of time recording and for flex leave shall coincide.
<b>Standard hours</b>	Are from 8.00 am to 4:00 pm, Monday to Friday, with a lunch break of one hour, but may be any 8 consecutive hours within bandwidth with an hour for lunch, as determined by the Commission.
<b>The Award</b>	The <i>Crown Employees (Law Enforcement Conduct Commission) Award 2016</i> or its successor.
<b>The Commission</b>	The Law Enforcement Conduct Commission. Where the Commission refers to a person exercising an authority, that reference includes an employee within the Law Enforcement Conduct Commission who is authorised by delegation to exercise an authority.

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## 2. LECC Values

The LECC values of trust, collaboration, integrity, accountability and teamwork are the basis of a values-led workplace culture. The Commission requires your behaviour and conduct to comply with Commission's Code of Ethics and Conduct.

## 3. Know your responsibilities

### 3.1 Employees

Staffing levels at any given time must be able to meet the Commission's operational requirements and performance standards:

- Decisions about working hours must take into account the operational requirements of the LECC, including the specific requirements of a relevant division or team.
- These decisions are to be made between the employee and their direct manager based on consultation and negotiation.
- Employees need to give reasonable notice of a request for flex leave or ADO.

### 3.2 Executive/Managers

- Decisions regarding working hours must take into account the operational requirements of the Commission, including the specific requirements of a relevant division or team.
- These decisions are to be made between the employee and their direct manager based on consultation and negotiation.
- Employees are to be informed of the need to change hours as soon as practicable.

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## 4. Part-time employees

All part-time employees, including those in job-sharing arrangements, have the same rights to flexible working hours' arrangements as full-time employees, on a pro rata basis, unless otherwise agreed in their part time work agreement.

Flexible working hours' accrual, credit and debit limits and the periods of flex leave permitted, will be the same as for full-time employees. For example, part-time workers will accrue an hour of flex credit for each hour worked in excess of their ordinary hours.

Part-time employees may not be directed to work more than their daily pro-rata contract hours.

## 5. Surveillance Officers

The Commission recognises the need for greater flexibility in managing the flexible working hour's scheme for Surveillance Officers, including technical surveillance operatives and Electronic Surveillance monitoring employees, and allows for variations in recognition of their particular circumstances.

## 6. Bandwidth

Bandwidth is from:

- 7:00 am to 7:00 pm, for Monitors and the Systems Administrator ECU (including employees acting in the role of Systems Administrator ECU on a temporary basis).
- 7:30 am to 7:00 pm Monday to Friday, for all other employees. Employees will not be rostered to finish their shifts later than 6:00 pm.

The bandwidth may be varied with the agreement of employees and their manager to meet LECC or employee needs.

For the purposes of accrual under section 12, time will not be credited to employees for attendance outside the bandwidth or when working additional hours for which overtime is approved.

## 7. Core time

Core time will be worked under one of the following arrangements as determined by the Commission:

1. Standard core time of 9:30 am to 3:00 pm; or
2. Floating period of any six (6) hour period (consecutive hours) within the bandwidth subject to operational or service delivery requirements as determined by the Commission, with the consent of the employee; or
3. No core time if a non-standard hours of work arrangement applies, as provided in

section 9 of this Policy.

A minimum of five (5) hours is to be worked each day, and a maximum of ten (10) hours. All employees are entitled to work their minimum daily contract hours on any normal working day. An employee cannot be directed to work less than the minimum daily contract hours on any normal working day. The Commission may direct an employee to work their minimum daily contract hours.

Core times exclude lunch and meal breaks as provided by section 11 of this Policy.

## 8. Standard hours

An employee may be directed not to start work before a certain time, or not to finish work after a certain time, where the work is not required to be performed at those times.

The Commission may direct an employee to work standard hours where the CEO or delegated officer decides that the working of flexible hours by an employee or employees does not suit the operational requirements of the Commission. A direction to work standard hours may also be given if the CEO or delegated officer determines that the employee is not observing the terms of this Policy.

Standard Hours are from 8.00 am to 4.00 pm Monday to Friday, with a lunch break of one (1) hour; but may be any eight (8) consecutive hours within the bandwidth with an hour for lunch, as determined by the Commission.

An employee may elect to work standard hours, provided the hours worked meets the operational needs of the Commission.

## 9. Non-standard hours

The Commission and employee may agree to a non-standard hours of work arrangement for either a short or extended period of time, in order to:

- perform work on a project or other piece of major work that is largely self-guided or seasonal; or
- give effect to an approved flexible work option under a policy of the Commission or of the NSW Government.

Flexible options policies include:

- work from home policy;
- flexible working arrangements procedure;
- travel choices; and
- other similar policies allowing flexible work options, or the flexible delivery of work, as approved by the Commission from time to time.

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During the period of a non-standard hours of work arrangement:

- the employee will not be required to work within a bandwidth, a core time of hours, or work minimum daily contract hours;
- hours will continue to average 35 per week of accrued work time (AWT), worked in a manner, and at a time of day appropriate to the needs of the work or project, in compliance with the relevant policy, and under the supervision of the relevant manager;
- the employee will not accrue flex leave credits or debits, or be entitled to additional flex entitlements, but may schedule work as anticipated under the role description, and the Performance and Development framework;
- the timekeeping records of section 12 of this Policy will be as determined by the manager;
- leave will be according to the Award; and
- A work performance plan will outline the expectations of the work and the working hours.

As far as practicable, the start and finish of a period of non-standard hours should be planned to coincide with the start and finish of a settlement period, unless otherwise agreed.

An employee may elect to return to the flexible terms of this Policy at any time, provided it coincides with the start or finish of a settlement period, as far as practicable.

The manager may direct that a period of a non-standard hours of work arrangement should end, due to an operational reason, or any other reason. The employee may then be directed onto flexible working hours, or standard hours, as necessary, subject to operational requirements.

Any dispute concerning the operation of a non-standard hours of work arrangement may be dealt with under the disputes resolution clause of the Award.

## 10. Suspension of flexible working hours' arrangements

The CEO or delegated officer may temporarily suspend flexible working arrangements for some or all Commission employees during emergency response and recovery operations.

While flexible working arrangements are suspended, affected employees will be required to work Standard Hours or rostered shifts. The rostered shifts may be of seven (7) hours or longer, depending on operational requirements.

While flexible working arrangements are suspended, any hours that employees work in excess of seven (7) hours will be overtime as provided for the Award.

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## 11. Meal breaks

An employee must take a meal break of at least 30 minutes after five (5) hours of continuous work. Time spent on a meal break does not count towards an employee's AWT.

The standard entitlement for a lunch break is one (1) hour. With the approval of the Commission the break may be extended up to 2 ½ hours.

The scheduling and duration of lunch breaks may be subject to the operational requirements of the work unit and the approval of the Commission. The Commission may direct lunch breaks to be taken at times that ensure continuity of service.

## 12. Surveillance Officers' meal break

In recognition of the unique employment circumstances of Surveillance Officers, the following provisions will, as far as possible, apply:

- Having regard to operational needs and requirements, Surveillance Officers shall be allowed an unbroken period of not less than 30 minutes for a meal break within a seven (7) hour work period. Such time shall not count as work.
- Having regard to operational needs and requirements, Surveillance Officers shall not normally be required to work more than five (5) hours without a meal. Where more than 7.5 hours is worked, a further meal break must be taken every five (5) hours.

## 13. Accrual of work time within the settlement period

An employee may only accumulate AWT in excess of the minimum daily contract hours where the Commission is satisfied that work is available and approves the employee to carry out such work.

All time worked during the settlement period in accordance with this Policy will count towards the employee's AWT, with the exception of approved overtime.

A full time employee is contracted on the basis of a 35 hour week (7 hours per day). This equates to 140 hours for each settlement period. Part time employees have the contract hours of their part time work agreement.

An employee should have a minimum AWT of 129.5 hours at the conclusion of a settlement period. The minimum of 129.5 hours includes all credited AWT and all approved leave. Where AWT is less than 129.5 hours at the end of the settlement period, the employee will be required to use recreation leave to cover the shortfall in hours. If the employee has no leave available, leave without pay (LWOP) will apply for the amount below 129.5 hours.

An employee is entitled to carry over up to and including an additional 14 hours in excess

of the 140 hours of AWT in any one settlement period, any additional hours accrued will be forfeited at the end of the settlement period.

Where exceptional circumstances arise and it appears that the employee will be required by the Commission to accrue more than 154 hours in a settlement period, the Commission may approve a higher carry over for that period and ensure the flex time record is amended accordingly. The Commission may direct an employee to reduce their hours of work during any normal working week during a settlement period, on health and safety or staff welfare grounds, if there is cause to believe that the staff member is working excessive hours.

## 14. Monitoring of accrued work time

Hours worked are to be monitored by the employee and the Commission over a four (4) week settlement period, through the use of flex time records, as determined by the Commission. All employees must complete an approved flex record, in a manner determined by the Commission from time to time, for each settlement period and must record working times on a daily basis where practical to do so. Employees' flex sheets will be audited by the Commission from time to time.

Employees must apply for flex leave in the manner determined by the Commission from time to time.

## 15. Accrued day off (ADO)

In lieu of flexible working hours, surveillance operatives including technical surveillance operatives and Electronic Surveillance monitoring employee are provided with ten (10) accrued days off (ADOs) per annum.

ADOs accrue on a monthly basis at the rate of 0.833 of a day per month. Where ADOs accrue to five (5) days, the manager and employee shall develop a strategy to ensure the number of days accrued is reduced within three (3) months.

Accrued ADOs are paid out on termination of employment.

## 16. Flex leave

The requesting, approving and taking of flex leave will be done in an equitable, transparent and fair manner and subject to operational requirements, as per the below requirements:

- Flex leave may be requested by employees in a manner as determined by the Commission from time to time.
- Requests for taking flex leave will be considered by the Commission and determined subject to operational requirements.
- Flex leave must be applied for and approved in advance of it being taken, and

cannot be applied for retrospectively.

- Employees may take a maximum of four (4) flex leave days (28 hours) per settlement period provided it does not exceed the annual limit.
- The annual limit of flex leave is a maximum of 26 flex leave days (182 hours) per financial year.
- Flex leave may be taken at the beginning and/or end of a period of other leave.
- Flex leave may be taken as either full days (7 hours) or half days (3.5 hours) or a combination of either.
- Employees may take flex leave up to two (2) consecutive business days or half days, or combinations of either in a given settlement period.

Where exceptional circumstances have arisen and an employee accrued additional hours in accordance with section 13 of this Policy, an additional day's flex leave may be taken in the following period if approved.

An employee does not receive any credit towards their accrued work time when taking flex leave.

To ensure that recreation leave balances are maintained in accordance with NSW Treasury directions, an employee with a recreation leave balance in excess of 40 days, or its part time equivalent of eight (8) weeks, flex leave may only be taken where at least one day of recreation leave has been applied for and approved within the flex period.

## 17. Overtime

Employees listed below shall be paid an allowance in lieu of overtime payments for overtime worked on weekdays, weekends and public holidays –

- Investigator (Integrity Division).
- Financial Investigator (Integrity Division).
- Senior Investigator (Integrity Division).
- Senior Technical Operative (Integrity Division)
- Technical Operative (Integrity Division).
- Surveillance Operative (Integrity Division).
- Surveillance Team Leader (Integrity Division).
- Monitor Electronic Collection (Integrity Division).
- Critical Incidents Operative (Oversight Division).
- The allowance forms part of the overall remuneration and is set out in the [Award](#).

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The provisions of the [\*Crown Employees \(Public Service Conditions of Employment\) Reviewed Award 2009\*](#) will apply to all other non-executive employees.

The application of overtime under this Policy will be as follows –

- Overtime will apply where an employee is directed to work outside the bandwidth or if the employee having already worked seven (7) hours on the day in question is directed to work overtime for a specific identified business need.
- Overtime may only be worked with the approval of the relevant delegated manager.

## 18. Additional flex entitlements

Subject to ongoing approval by the CEO, an employee working under the provisions of this Policy 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 NSW Public Sector Industrial Relations.

All other provisions of this Policy are to apply including the limits on the carry over at the end of the settlement period.

## 19. Separation for the Commission

Where an employee has a flexible working hours' credit or flexible working hours' debit during their four (4) week notice period, every effort must be made to balance the hours to zero prior to the last day of service.

Any flexible working hours' debit on an employee's last day of service is to be deducted from any unpaid salary or the monetary value of accrued recreation or extended leave. Where a flexible working hours' credit exists during the notice period, the Commission may approve other measures locally, such as additional flex leave prior to the last day of service in order to balance the hours to zero.

A flexible working hours' credit remaining on the last day of service is forfeited and no payment will be made in respect of any residual credit hours. However, where it is requested by the employee and agreed by a new NSW public sector Department/Agency that the employee may be joining, the employee's credit hours may be carried forward to the new Department/Agency.

Similarly, the Commission will not recognise the flex leave credit that an individual employee may have with another public sector organisation upon commencement of employment or a secondment.

## 20. Workplace issues

Workplace issues between employees and their manager over the implementation of any

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aspect of this Policy will be dealt with through the LECC's workplace issues procedure and the Award.

## 21. Resources

- LECC Code of Ethics and Conduct
- LECC Part-time application form
- *Crown Employees (Law Enforcement Conduct Commission) Award 2016*
- [\*Crown Employees \(Public Service Conditions of Employment\) Revised Award 2009\*](#)

## 22. Advice and further information

Contact your manager to discuss any queries in regards to flexible working hours. For further information, contact the manager Human Resources.

## 23. Monitoring and review

This procedure will be reviewed in accordance with the policy review schedule specified in the document control metadata and at other times if new information or organisational change warrants an amendment. Scheduled and other revisions of this Policy will be completed in consultation with interested parties to ensure relevance and effectiveness.