Teaching Constraints Policy – Equality Analysis

Process

The Task & Finish Group was convened to consider the issue of Teaching Constraints (see ToR Appendix A) and develop a policy as requested by Senate. The need to timetable teaching across the week in order to make best use of available space and respond to the needs of students is a legitimate policy objective that enables the University to function.

The group’s membership included both the Athena Swan Lead (Professor Sarah Vickerstaff) and the Director of HR (Alison Ross-Green). This was specifically to ensure that issues of equality would be considered.

The terms of reference for the Task and Finish Group were shared with JSNCC at its June 2018 meeting.

The group sought and considered data on the reasons for applying for Teaching Constraint and noted that these included caring, personal, “other”, health and religious observation.

From the outset of its discussions issues of equality were discussed – in particular the impact on those with caring responsibilities and how to ensure that any policy paid regard to the need for flexibility wherever reasonable around caring responsibilities and health. The advice of the HR Director was that the Flexible Working Policy was the only employment policy agreed by JSNCC to cover such requirements. Its scope covered all staff and so it should be used to consider flexible working needs related to these issues. This view was supported and shared by the other members of the group.

The group acknowledged that academic staff would be largely unfamiliar with the flexible working policy and would need time and support to understand it and make any necessary applications. This was later reported to EG with a recommendation that for the first year of its introduction those with caring responsibilities and health issues should continue to make applications in accordance with the existing Teaching Constraints practices. From January and to September 2019 HR would then proactively contact HoS and staff with such responsibilities/issues to support them through the process and answer any questions.

It was acknowledged that the Flexible Working Policy would need to be amended to reflect the working practices of academic staff and aligned with the new teaching constraints policy. This was confirmed in the meeting with UCU on 4 October. As a part of this review the reference to the 26 week qualifying period will need to be removed. The ASWAN Manager has reviewed the proposed amendments to the Flexible Working Policy and has added two minor points of clarification.

HR sought information from schools on numbers of staff with a caring related teaching constraint. This was provided to the ASWAN manager (below) to cross reference with the data provided by timetabling which covered all known categories of reasons for applying for a teaching constraint.

The ASWAN manager completed the commentary on the policy on behalf of HR on 3 September and commented on it. This is attached at Appendix B.

The ASWAN manager raised the issue of whether the policy needed to say more about religious observance. It was agreed that a dedicated policy would be needed in due course given that this is a complex area but has not yet created any difficulties in the application of the Teaching Constraints Policy and was not expected to do so. HoS would therefore need to be advised that they could seek HR advice where they received such applications or approaches but where it was clear that
where a recognised religion/profound belief\(^1\) gave no leeway such applications should be granted. An amendment would need to be made to the policy to signal that applications for other exceptional circumstances and commitments, not directly referred to in the policy could be considered.

The consultation period began on 27 September and finished on 29 October at a second meeting with UCU and a small group of academic staff, at which staff and Trades Union feedback was discussed.

A first meeting took place with UCU on 4 October at which a wide range of questions were raised about the policy including questions relating to equality matters. In response to these questions the HR Director and the Dean of Sciences developed a FAQ and this was sent to UCU for initial comments on 11 October. This was intended to fully and transparently respond to all the questions raised by UCU on behalf of their members including equality related issues. UCU had no comments at that time. On 12 October UCU were sent a final version for circulation to their members.

On 18 October 2018 Professor Philippe de Wilde raised the potential for the policy (in relating to commuting times) to have a disproportionate negative impact on those who are married and civil partnership. This hypothesis was not contested.

On 21 October 2018 Professor Sarah Vickerstaff raised the issue of the policy (in relation to commuting times) having a disproportionate negative impact on women in partnerships. This hypothesis was not contested. This same point has subsequently been raised in a number of consultation responses from schools.

The response provided to Professors De Wilde and Vickerstaff is as follows:

“Contracts still require individuals to live within a 25 mile radius or 1 hour of travelling time. Deans can waive this requirement but they cannot waive a requirement to be available to undertake the role that academics are employed to carry out. We have a number of examples in PSDs for example where individuals stay overnight in order to manage their employment commitments.

As you will be aware, while a particular policy criterion may have a disproportionate impact on one particular group or another, this criterion will not amount to discrimination where it is to meet a legitimate policy objective – in this case requiring individuals to be available to carry out a key aspect of their role is a legitimate policy objective without which the University cannot function.

The ability of Deans to waive the travel requirement is the way in which the University has chosen to mitigate the impact of this policy criterion on a protected group. It does not though, as I have already indicated, mean that these staff are not required to be on campus as needed to carry out their role. The clause that we rely upon in this context in the contract,

“It shall be the duty of every academic member of staff to devote him/herself to the advancement of knowledge in his/her subject and to give instruction therein within the University.

This is the primary contractual duty of all academic members of staff.”

Staff who commute and have caring commitments or health issues can though still apply for Flexible Working.

\(^1\) EHRC advice to be referenced.
On 1 November UCU raised a query about the position of new part time workers and how their potential need to carry out work for other employers could be safeguarded. In response to this it was confirmed that working patterns (where an individual cannot be flexible) need to be agreed at the point of recruitment. The Offer Details Form, that is prepared by recruiting managers already includes provision for working patterns to be recorded a further note would now be added to this part of the form to underline the importance of agreeing and recording academic work pattern in advance to facilitate timetabling and/or the other work commitments a part time academic may have. This pattern can be permanent or the parties can agree that it can be reviewed after a set period of time. The work pattern included in the offer details form will then be recorded in the contract offer so that there is full transparency.

In summary the Teaching Constraints Policy has an impact on those groups listed above. Mitigation has been put in place in the form of: an extended timeline for Flexible Working Requests with HR support to both individuals and HoS, amendments to the Flexible Working Policy, FAQs to reduce any unnecessary uncertainty/anxiety, a commitment to develop a Religion & Profound Belief Policy, an amendment to the Teaching Constraints Policy to allow other compelling reasons relating to regular and non-discretionary activities to be added, changes to process on recruitment to safeguard the position of new part time staff.

End
Appendix A

Terms of Reference

Task & Finish Group: Teaching Constraints

Executive Summary

This paper outlines the remit and terms of reference for the Teaching Constraints Task and Finish Group, which has been established to review the current University guidelines and develop a new University policy to be applied at the start of the 2019-20 academic year. The Task and Finish group has been sponsored by the Deputy Vice-Chancellor, Education. This follows acceptance at Senate in Autumn 2017 of the need for a group (GEMS) which was charged, *inter alia*, with looking at the teaching week.

The intention is to support best practice and develop a common University level policy and approach applicable to all teaching staff regardless of their home department in order to ensure fair and equitable handling of constraints across Kent. This review will complement the work of the GEMS group and the Simplifying Kent SK1 strand.

Any School or Centre level policies will be compliant with this new over-arching policy. This may require a change to the current teaching constraints guidelines to support the new policy. The intention is that the new policy will be agreed and implemented for all full time teaching staff (independent of past arrangements) in time to be implemented for the academic year 2019-2020.

Governance

The Teaching Constraints Task and Finish Group will report directly to the University’s Education Board and report its findings and policy proposal to the JSNCC, Staff Policy Committee, Senate and the Executive Group.

Overall purpose

The overarching remit of this task and finish group is to:

- Review the current practice regarding the application of teaching timetable constraints across the University
- Build on the guiding principle, that unless otherwise specified by contract or as agreed as a result of this policy, all full time staff are expected to be available to teach during University of Kent teaching hours. (Currently Monday - Friday inclusive between the hours of 9 am and 6 pm).
- Establish a Teaching Constraints policy that can be implemented across the University in keeping with equality and diversity policies and the University’s inclusive practices.
The new policy will then be cast into formal policy document style by HR and go to EG and Education Board for agreement. It should then be reported at Senate and SPC before being implemented for all teaching staff independent of past arrangements.

**Terms of Reference**

The Teaching Constraints Task and Finish Group has been tasked with setting a clear University policy regarding Teaching Timetable Constraints to enable the optimal delivery of learning and teaching across the University. This includes recognising the needs of students as well as staff.

The committee will consider what guidelines can be used to allow exceptions to the basic policy. These can include: Research time (block allocations), external/activities or visits required for work related purposes, etc.

The committee will determine guidelines on who can approve these exceptions and in what circumstances. Also, how late constraint requests can be handled.

The new policy will be ready to implement for academic year 2019/2020.

The new policy should be checked against and have regard for existing policies and legal frameworks. This will be the responsibility of HR, JSNCC and SPC.

**Membership (EG Sponsor: April MacMahon)**

Mark Burchell (Chair), Dean of Sciences  
Philippe de Wilde, Deputy Vice-Chancellor, Research and Innovation  
Simon Kirchin, Dean of Humanities  
John Wightman, Dean of Social Sciences  
Linda Lough, Head of Administration, Sciences  
Melissa Mulhall, Head of Administration, Social Sciences  
Denise Twomey, Head of Administration, Humanities  
Anita Jackson, Director of Student Planning and Information  
Alison Ross-Green, Director of Human Resources and Organisational Development,  
Sarah Vickerstaff, Athena Swan Institutional Lead  
Laurienne Tibbles (Secretary), School Administration Manager, Biosciences

**Programme of work**
The group will have an initial 2 - 3 hr meeting in January 2018, but a second meeting that month may also be necessary.

In formulating its recommendations, the working group will:

- take account of the evidence available;
- consider the impact of its recommendations on all stakeholders, including but not exclusively teaching staff and students;
- consider how this applies to fraction FTE, as well as full time, staff;
- take account of views on areas of concern, (including concerns regarding equality and fairness, work/life balance etc.) and address these as far as possible.

End
Appendix B

Teaching constraints policy

My comments on the policy and for the HR Section on the accompanying report are based on the below data from Anita Jackson that summaries the different reasons cited for approved 2017/18 Teaching Constraints:

<table>
<thead>
<tr>
<th>Reason summary</th>
<th>Total Hours</th>
</tr>
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<tbody>
<tr>
<td>Research</td>
<td>71881</td>
</tr>
<tr>
<td>Study leave</td>
<td>17976</td>
</tr>
<tr>
<td>Childcare/family commitment</td>
<td>17480</td>
</tr>
<tr>
<td>No reason given</td>
<td>13908</td>
</tr>
<tr>
<td>Part-time</td>
<td>10272</td>
</tr>
<tr>
<td>School research meeting</td>
<td>8239</td>
</tr>
<tr>
<td>Office hours/admin</td>
<td>3990</td>
</tr>
<tr>
<td>School meeting</td>
<td>3636</td>
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<tr>
<td>Other work commitment</td>
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<tr>
<td>Personal commitment</td>
<td>3036</td>
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<tr>
<td>Commuting</td>
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<td>PGCHE</td>
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<tr>
<td>Health</td>
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<tr>
<td>Other employment</td>
<td>1380</td>
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<tr>
<td>UCAS</td>
<td>915</td>
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<tr>
<td>Travel between campuses</td>
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<tr>
<td>Maternity leave</td>
<td>95</td>
</tr>
<tr>
<td>Religious observation</td>
<td>95</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td><strong>162685</strong></td>
</tr>
</tbody>
</table>

Comments on the Policy wording

- Section 7.4 lists the valid reasons for a Teaching Constraint and should include ‘Religious Observation’ as this is a protected characteristic that unlike Disability or Maternity leave, is not covered by a separate policy.

- Include ‘Travel between campuses’ to the list of valid reasons in Section 7.4?

- Add ‘Office hours/admin’ to ‘Commuting times’ as another example of an invalid reason in Section 7.5.? And state that generic reasons such as ‘other work commitment’ or ‘personal commitment’ are not valid
• For Maternity leave, the changes to teaching timetables currently reach the timetabling office in different ways. Some are through Teaching Constraints and others are through timetabling changes requested directly by School timetabling planners. To promote the latter as a standard approach, sections 5 and 11 need to include reference to the Maternity Leave Policy in the same way that applications relating to a Disability are signposted to the Disability in Employment Policy

• On the template form in Annex 1, I’d suggest
  
  o the valid reasons in Section 7.4 are listed
  o signpost to the Flexible Working procedure for changes to available teaching hours based on part-time and caring commitments

**HR comments for accompanying report**

The use of the Flexible Working Policy and Procedure for managing the approval of changes to teaching hours based on childcare and caring responsibilities is welcomed. It will raise awareness and use of this family-friendly policy which is applicable for all colleagues and covers a range of flexible working conditions including child care, caring responsibilities and part-time working. The policy also includes an appeals process and is bound by Statutory rights whereby colleagues have a right to request and receive a response to applications for changes to their working patterns.

There are however operational impacts that will need to be considered:

• Based on 2017/18 data, 17% of teaching constraint hours were related to ‘childcare/family commitment’ or part-time working. The current number of colleagues with Teaching Constraints based on childcare/caring responsibilities is 100, (excluding SMSAS). With the implementation of the Teaching Constraints policy, these applications will now come through the Flexible Working procedure and will require processing by HR, including communication of the outcomes to Head of Schools and School timetabling planners.

• Heads of School may require support and guidance from HR in their discussions with colleagues for changes to teaching hours relating to childcare and caring responsibilities through the Flexible Working Policy or applications that need a specific consideration of equality and diversity

3 September 2018