

PEOPLE POLICY

WORKING TIME REGULATIONS POLICY & PROCEDURE

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INTRODUCTION

- The purpose of this policy is to protect the health and safety of employees from the risks of working excessive hours by applying the requirements of the Working Time Directive regulations 1998.
- The regulations lay down the minimum conditions relating to weekly working time, rest entitlements, annual leave and make special provision for working hours and health assessments for night workers.
- The document outlines the arrangements for the implementation of the regulations within the Trust, which have been agreed through the JCC.

SCOPE

- This policy applies to all Trust employees and workers.
- The regulations also include the facility for certain employees and/or activities within the Ambulance Service to be exempt from some of the rights and obligations of the policy. Regulation 2 states that ambulance staff fall within the definition of Civil Protection Services due to the type of services they provide.
- The Trust aims to apply the Regulations as far as it is able to as we consider this to be in the best interests of our patients and employees.

EQUALITY STATEMENT

The Trust is committed to promoting positive measures that eliminate all form of unlawful or unfair discrimination on the grounds of age, marriage and civil partnership, disability, race, gender, religion/belief, sexual orientation, gender reassignment and pregnancy/maternity or any other basis not justified by law or relevant to the requirements of the post. The Trust will therefore take every possible step to ensure that this procedure is applied fairly to all employees, encouraging people from protected groups to participate particularly where their participation is disproportionately low.

DEFINITIONS OF WORKING TIME

- The Regulations apply to “Working Time” defined by the as being any period during which the employee is working, at the employer’s disposal and carrying out his/her duties. The definition also covers any period during which the employee is receiving relevant education and training authorised by the Trust.

The activities that are included in the working time regulations include:

- Paid hours of duty;
- Overtime, including overruns;

- Paid travel time in own vehicle or Service vehicle as per terms & conditions of employment (for example, employees who are called into work during a period of on-call or staff who receive travelling time as part of a disturbance package due to a relocation);
- Whilst on relief excess travel time (average of 30 minutes each way) taken in travelling in the course of work is classified as unpaid working time and therefore needs to be considered when calculating the 11-hour break
- Paid education and training, including lesson time and formal group work as part of an agreed event;
- Working time in other employment, which must be declared by the worker using the declaration form in the Additional Employment Policy;
- Necessary unpaid hours;
- Civic/public duties;
- Trade union duties;
- On-call (working).

The following activities do not count as working time:

- Leave due to sickness, annual leave, maternity leave, accrued leave;
- Unpaid meal breaks;
- Unpaid travel in own vehicle at start/end of a shift or working day (i.e., home-to-base)
- On-call (but not working).

PROCEDURE AND GUIDANCE

EMPLOYEES WITH MORE THAN ONE JOB/EMPLOYER

- Where an employee wishes to undertake additional employment including voluntary work outside the Trust, they must inform their line manager including the number of hours worked in the job/activity. This allows the Trust to ensure that the employee is not exceeding the limits set out in the regulations.
- Individuals have a responsibility to ensure the work undertaken outside their main employment does not adversely affect their ability to perform their role within the Trust.
- Waiver clauses must be signed where the employee wishes to exceed an average of 48 hours per week by working for another employer and/or by holding a second contract with the Trust.

WEEKLY WORK TIME

- Within the Trust, the working week will be taken to start and end at midnight each Sunday.
- The purpose of the Regulations is to limit working time to an average of 48 hours per week, calculated over an agreed averaging period. The formula used to calculate average working time is as specified in Section 4(6) of the Regulations.
- Line managers shall review employees working time on a regular basis to identify and address any concerns around individuals exceeding the number of hours outlined by the Regulations. They can then consider measures including reducing overtime.

OPTING OUT OF THE 48-HOUR WEEK

- Employees may choose at any time to agree to work more than the 48 hours average weekly limit.
- To opt out the employee needs to complete a Trust Waiver Form. A copy of the form is retained by their manager and forwarded to HR to be recorded on ESR. A further copy is returned to the employee.
- The Waiver Forms may relate to a specific period or apply indefinitely. In either case, the employee or employer must give four weeks' notice to end the agreement.

- There may be circumstances where the Trust raises concerns that the Waiver Agreement is detrimental to health and safety of the employee. In such circumstances the Trust will give 7 days' notice to end the waiver agreement. The employee continues to maintain their right to appeal, should they consider the withdrawal unreasonable.
- It is important that managers make employees aware there is a Waiver Agreement available but not exert pressure on the employee to take this option

NIGHT WORK AND NIGHT WORKERS

- Night-time is defined as a period of at least seven hours including the hours between midnight to 05:00, as outlined in the NHS handbook.
- An Employee is considered a night worker if they work for at least three hours daily during night-time hours under 'normal' circumstances.
- The NHS Handbook requires employers to ensure that night workers do not exceed an average of 8 hours per shift over a 17-week period. As far as is reasonably practicable.
- The Trust is committed to working in collaboration with managers and staff representatives to ensure that Front-line and Out-of-Hours services adhere as far as possible to the normal hours of 'night' work outlined in the Regulations. The rota system (GRS) is set to be compliant with WTR.
- The Trust will work collaboratively with our union colleagues, assess the implications of this element of the Regulations in respect of 10-hour shifts.

NIGHT WORKER HEALTH ASSESSMENT

- Employees that meet night worker criteria are entitled to a free health assessment on request or when requested by the Trust. This process can be discussed in a 1:1 meeting or as part of the annual appraisal.
- The purpose of the health assessment is to determine whether the employee is fit to carry out the night work they have been assigned.
- In circumstances where a medical practitioner has advised that the employee is suffering from health problems connected to their night working, they should be referred to Occupational Health.
- If Occupational Health advice is that the employee is suffering from health problems connected to the fact that they work during the night-time, the Trust where possible will offer to transfer the employee to suitable day work or other suitable deployment.

- It is the responsibility of the line manager in collaboration with the Risk Department to ensure that risk assessments are conducted and aim to ensure that the hazards faced by night workers do not constitute special hazards or heavy physical or mental strain when compared to activities undertaken at other times.

REST PERIODS

Employees may not opt out of daily or weekly rest periods which are defined in detail, below.

Daily Rest Periods

- An employee is entitled to a rest period of not less than 11 consecutive hours in each 24-hour period. In circumstances where 11 consecutive hours is not practical because of contingencies of the Service (which may include “overruns”) daily rest may be less than 11 hours.
- Where the employee has not been able to benefit from 11 consecutive hours’ rest, compensatory rest should be provided at the earliest possible opportunity. Overtime payment will not be payable when compensatory rest has been granted.
- In accordance with the Regulations, in exceptional circumstances, not all staff will always benefit from this; in particular in the event of a major incident or other significant occurrence.
- It should be noted that travelling time to and from your base location is an individual’s responsibility; is not included in weekly work-time and, as such, is included in the rest period of 11 consecutive hours.

Weekly Rest Periods

- Within the Trust, the definition of 7-day period/14-day period is based on a rolling 7 days/14days.
- All employees should receive an uninterrupted weekly rest period of 35 hours (including the eleven hours of daily rest) in each seven-day period for which they work for their employer. Where this is not possible, they should receive equivalent rest over a 14 day period, either as one 70 hour period or two 35 hour periods.
- Where this is not possible, compensatory rest must be granted as soon as possible to protect a worker’s health & safety.

Compensatory Rest

- Where employees have been required, at the exigencies of the service, to work

during either weekly or daily rest periods, an equivalent number of rest hours should be provided as soon as possible, bearing in mind the employee's health and safety.

- Compensatory rest will not be provided in the event of voluntary overtime.

Rest Breaks

- When an employee's daily working time is more than six hours, he/she is entitled to a 20-minute uninterrupted rest break. Where staff are on centrally managed shifts, rest breaks will be allocated in accordance with the provision of the Trust's Meal Break Policy.
- Employees under the age of 18 are entitled to one 30-minute rest break if working over 4.5 hours.
- Rest breaks must not be allocated at the start or end of a shift and are unpaid
- Every effort must be made to ensure a rest break is taken during the shift. Where an employee is unable to take a rest break, or where a rest break is interrupted (in exceptional circumstances, due to the need to maintain standards of patient care), compensatory rest will be granted at the earliest possible opportunity.
- Further details regarding the daily allocation of rest/meal breaks for operational staff can be found with the Trust's Meal Break Policy

OTHER PROVISIONS

- The Trust will retain records, for two years from the date they were made of the working hours of their employees. All employees should assist managers to keep the record accurate and make them aware of any errors.
- Individual records are confidential and will be retained in accordance with the provisions of the General Data Protection Regulation (GDPR).
- The Trust's leave year runs from 1 April to 31 March. The Trust will comply with annual leave entitlements and relevant provisions as specified in the Regulations and in accordance with the NHS Handbook. Employees that work part time will be entitled to pro rata annual leave.

RELATED POLICIES

This policy should be read in conjunction with the following:

- Overtime Policy
- Additional Employment Policy

- Bank Policy
- Meal Break Policy
- Relief Policy
- Flexible Working Policy
- Annual Leave Policy

MONITORING & REVIEW

- The effectiveness of this policy will be monitored regularly by HR who will provide data on the use of the policy as and when required. Annual report will be provided to the trust board at the end of each financial year. The results of the annual staff survey will also provide a valuable indicator of any problems.
- In advance of the review date, the HR team will review and produce recommendations which will be shared via the recognised policy approval process (HR Policy Review Group) in time for the policy review date. An early review can be triggered by the trust board, HR or Union colleagues if they have serious concerns about the policy or its implementation.
- The policy will normally be reviewed on a 3-yearly cycle but will take place sooner in the event of legislative change or change to NHS terms and conditions.

REFERENCES

- Direct.gov Working Hours information and advice: <http://www.direct.gov.uk/en/Employment/Employees/WorkingHoursAndTimeOff/index.htm>
- ACAS Working Hours information and advice: <http://www.acas.org.uk/index.aspx?articleid=1373>