

Working Time Directive Managers Guidance

1. Introduction

The Working Time Regulations apply to all employees full and part time, temporary and casual workers (including bank staff). Agency or contract workers are also included but responsibility and subsequent liabilities under the Regulations rests with the organisation that is responsible for paying them (i.e., the Agency).

The Working Time Regulations detail rights and obligations relating to working time and rest time. The main provisions cover the following points:

- a limit on average weekly working time to 48 hours
- a limit on night workers' average normal working time to 8 hours
- requirement of employers to offer free health assessments (night workers)
- minimum daily and weekly rest periods
- rest breaks at work
- paid annual leave.

2. Definition of Working Time

Under the Regulations and for the purposes of this guidance working time is defined as any time an employee is:

- i. working in an identified workplace or area
- ii. at the employer's disposal
- iii. carrying out his / her contracted duties or activity.

Examples of working time include: (this list is not exhaustive)

- travelling to see patients or travelling between sites / meetings as part of duties
- time spent on a call out during an on call period, including travelling from/to home
- time spent on stand by whilst compulsorily resident on site
- undertaking authorised training
- taking work home when specifically agreed and documented with manager eg agile working
- trade union / professional association duties undertaken by accredited representatives of recognized trade unions

The following would not be considered as working time:

- travelling to and from the place of work
- unpaid breaks
- being on call at home but pursuing own activities
- taking work home of your own accord (this includes telephone calls)

3. Weekly Working Time Limit

The Board will take all reasonable steps to ensure that its employees do not work more than an average of 48 hours per week over a 17 week reference period unless there are exceptional circumstances

An employee may be required to work more than 48 hours in any one week as long as the average of 48 hours over the reference period is not exceeded.

Health & Safety Management Manual

The Regulations allow that an individual employee may choose to agree to work more than 48 hours average per week by completing and signing a working time opt out form/ waiver. This is voluntary on the part of the individual employee and they can decide at any time, by giving one weeks notice, that they no longer wish to work in excess of 48 hours per week. The other stipulations of the Working Time Regulations must however be complied with, even if the employee has agreed to sign a waiver. This section of the Regulations is the only part where an 'opt –out' may apply.

The Board has agreed that waivers may only be used by agreement of the relevant Director, and at periods where 'exceptional circumstances' may be cited. These include during periods of a major incident, where there may be unpredicted staff absence levels, caused by adverse weather or similar events, significant infection outbreaks e.g. HINI, and during unpredicted periods of patient activity. Any agreed waivers will be for a finite period agreed by the Board.

For reasons of health and safety no employee of the Board should work excessively long hours or for prolonged periods of time. Managers should take steps to ensure that they reduce the average hours of work of all employees to an acceptable level. In order to achieve this employees must inform their manager if they are undertaking any other types of work. i.e. secondary employment including bank and agency activity.

4. In-Work Rest Periods

Where the working day is longer than 6 hours an employee is entitled to a break of at least 20 minutes (unpaid). In the majority of areas in the Board staff working more than 6 hours will be able to take this 20 minute break as part of their normal meal break.

This break should be taken during the working shift, not routinely at the start or at the end, and the employee should be able to take this break away from their area of work / work station.

5. Daily Rest Periods

Employees are entitled to a daily rest period of 11 consecutive hours in each 24 hour period. This effectively means that there must always be 11 hours of rest between shifts.

6. Weekly Rest Periods

Employees are entitled to a rest period of 24 hours over a 7 day period. This can be averaged over a two week period (i.e. two rest days over a fortnight).

7. Secondary Employment

For employees of the Board who also have secondary employment either with another employer or NHS Body (e.g. Bank) it is the duty of the Board and the employee in partnership to recognise all working time is relevant to the Regulations.

Management responsibility:

The Board will take all reasonable steps to enquire of staff if they have secondary employment. This may include: 1:1 discussions with the employee and line manager, and by accessing regular workforce audits. Line Managers will monitor and review the hours worked by any employee ensuring that so far as is practicable increased hours are not having a detrimental effect to health, safety and or performance. If an employee has increased hours for any reason, the Working Time Regulations must be complied with.

Employee responsibility:

An employee will, through self assessment and discussion with their line manager, monitor and review any agreed increased hours ensuring that there is no adverse effect on the health and safety of themselves or others that may be affected by their work. The employee will also assess any impact increased hours has or may have on their performance.

If during their employment with the Board an employee seeks employment with an employer on a secondary basis they must inform their manager immediately.

If an employee does not disclose secondary employment to the Board they may be in breach of the Working Time Regulations and supporting Board Policies

NHS GGC Bank responsibility:

Where an employee is seeking additional working hours, there is a duty both on the employee and the 'NHS GGC Bank who may allocate the shift, to ensure that the Working Time Regulations, in terms of hours per week worked, are complied with.