

WORKING TIME REGULATIONS POLICY

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POLICY SUMMARY

This Policy aims to implement the key elements of the 1998 Working Time Regulations, amended 2003. It aims to balance the duty to workers' Health and Safety, through enabling flexible practices whilst ensuring appropriate safeguards are in place for the Trust and the workforce.

The Trust monitors the implementation of and compliance with this policy in the following ways;

Monitoring of the policy is carried out by the HR department through its ESR and Health Roster systems.

Services	Applicable	Comments
Trustwide	✓	
Essex MH&LD		
CHS		

**The Director responsible for monitoring and reviewing this policy is
Director of Corporate Governance & Strategy**

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

WORKING TIME REGULATIONS POLICY

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Assurance Statement

This policy and accompanying procedure aims to implement the 1998 Working Time Regulations, amendment 2003 and to protect the Health Safety and Welfare of the workforce with regard to working time and adequate rest. It promotes good working practices and complements the Trust's approach to Health and Safety at Work.

The policy has been developed to ensure that the Trust's values; compassionate, empowering and open are being adhered to at all times.

1.0 INTRODUCTION

- 1.1 This Policy aims to implement the key elements of the 1998 Working Time Regulations, amendment 2003. It aims to balance the duty to workers' Health and Safety, through enabling flexible practices whilst ensuring appropriate safeguards are in place.
- 1.2 The implications of case law (including European rulings) will be taken in to consideration when implementing this policy.

2.0 SCOPE OF POLICY

- 2.1 This policy applies to all Trust workers including employees and bank workers, but with the following exceptions;
 - 2.1.1 Self-employed workers
 - 2.1.2 Workers younger than 18 years old who are subject to different legislative requirements. Please refer to Policy on the Health and Safety of Young Persons.

In each case advice should be sought from the Human Resources (HR) Department.

- 2.2 In addition to this policy, the new deal for junior doctors applies to junior medical staff.
- 2.3 The principle of Working Time Regulations applies to all staff however the Trust recognises that all staff also has a duty of care which may include professional or personal responsibility.

3.0 DEFINITIONS

3.1 **Compensatory Rest** is taken when periods of statutory rest have been missed and / or interrupted. Compensatory rest also applies when the following situations arise:

- when workers are called upon to carry out work outside their contracted hours whilst off duty or whilst on-call.
- when a shift extends beyond normal shift hours due to an unforeseen situation or emergency (unless covered by bank working)
- when working through statutory breaks due to an unforeseen situation or emergency.

3.2 **Working Time** is defined as being at work, at the disposal of the employer and carrying out duties, including job related training and job related travel. However it does not include routine travel to and from the place of work, travel outside of normal working hours or any statutory or contractual breaks.

Staff who are required to be on-call as part of their duties and be resident in hospital or other place of work whilst on-call are considered to be 'working'. The whole of the resident on-call period counts as working time whether or not the member of staff is actively working. Staff who are on-call but are not required to be at the workplace and are therefore free to pursue other activities will only be classed as 'working' when they are tasked to carry out any duties during their on-call period. On-call working time commences from the time contact is made until the time the issue has been dealt with or until the individual returns home.

3.3 **Night Work** in relation to a worker means a period of not less than seven hours that includes the period between midnight and 5.00 am. This is taken to include staff on internal rotation.

A night worker may not be assigned to work at night for more than an average of eight hours in any period of 24 consecutive hours, calculated over a period of 17 consecutive weeks (Please note 8 hours work per night is an average taken over 17 weeks therefore shifts of 10 hours or more may still be feasible). (This reference period does not apply to Medical and Dental staff. Their national agreement provides for a 24 week reference period).

3.4 Statutory minimum **Annual Leave** under Working Time Regulations is 28 working days per 12 month period

All workers, including bank workers will receive the statutory minimum annual leave provisions (pro rata equivalents apply for part time staff).

Statutory annual leave entitlements are inclusive of bank holidays. Contractual leave entitlements may exceed this statutory minimum.

4.0 PRINCIPLES

- 4.1 The HR Department will give advice to both managers and workers in order that the Working Time Regulations are complied with.
- 4.2 Managers will monitor staff working hours and modify any working practices that do not comply with this Policy.
- 4.3 Staff are required to declare any additional paid or unpaid hours worked outside of the Trust. If the total number of hours for all work carried out exceeds 48 hours per week a waiver clause must be signed.
- 4.4 Managers should ensure compensatory rest is allocated, and mutually agreed, when it cannot be taken at the appropriate time.
- 4.5 This policy will be implemented in line with the Trust's Equality, Diversity & Human Rights Policy e.g. priority of designated statutory work breaks to be given to those that would wish to have religious reflection or other previously agreed situations.
- 4.6 Night workers are entitled to an annual health check which will be carried out by the Occupational Health department. The outcome of the health assessment will be dealt with on a case by case basis and a flexible approach will be taken.
- 4.7 The Trust will ensure that all statutory breaks are adhered to. If there are doubts raised about the effect of lack of breaks and rest periods on an employee's health, the line manager may refer them to the Occupational Health Department.

5.0 MONITORING OF IMPLEMENTATION AND COMPLIANCE

- 5.0 The HR Department will carry out ad hoc audits of Trust compliance with the Working Time Directive on an annual basis. This will be reported in to the HR SMT and Workforce Transformation Committee.

6.0 POLICY REFERENCES / ASSOCIATED DOCUMENTATION

- 6.1 The following legislation and guidelines attaining to this policy:
- 1998 Working Time Regulations (amendment) 2003

7.0 REFERENCE TO OTHER TRUST POLICIES/PROCEDURES

7.1 The following Trust policies and procedures should be linked and used as necessary:

- Health and Safety of Young Person
- Leave Policy
- Equality & Diversity
- Working Time Regulations Procedure
- Maternity Policy
- Time off in Lieu Policy and Procedure

END