

WORKING TIME REGULATIONS PROCEDURE

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PROCEDURE SUMMARY

This procedure 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 procedure in the following ways;

Monitoring of the procedure 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 procedure is
Director of Corporate Governance & Strategy**

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

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**APPENDIX 1 – INDIVIDUAL AGREEMENT TO DISAPPLY THE 48 HOURS
AVERAGE WEEKLY LIMIT**

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Assurance Statement

This 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 procedure 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 All workers have a contractual and legal obligation to maintain and protect the health, safety and welfare of themselves and others. This includes not working hours that make them unsafe for duty. This may particularly apply to workers who have multiple contracts within the Trust or undertake paid or unpaid employment outside of the Trust. There is therefore a responsibility of the worker to make the Trust aware of this immediately.
- 1.2 Managers will be responsible for ensuring that the working hours and shifts of workers comply with this procedure, and associated legislation.
- 1.3 Advice and guidance on the Working Time Regulations should be sought from the line manager or the Human Resources (HR) Department.

2.0 ANNUAL LEAVE

- 2.1 The key aim of the Working Time Regulations and of this procedure is to ensure that staff gets adequate rest. Workers are reminded therefore that during their period of statutory annual leave paid work should not be undertaken for the Trust, and this includes not working on the in-house bank. The Statutory Annual Leave entitlement is 28 working days per 2 month period (Pro rata if part time).
- 2.2 Payment in lieu of statutory annual leave will not be made other than on termination of employment. This is in accordance with both the Working Time Regulations and NHS Terms and Conditions.

3.0 WORKING TIME LIMIT

- 3.1 The limit on working time is 48 hours per week, averaged over 17 weeks. A separate agreement is in place for medical and dental staff with a limit on working time of 48 hours per week, averaged over 26 weeks.
- 3.2 If you're under 18, you can't work more than 8 hours a day or 40 hours a week.

- 3.3 A national collective agreement exists which covers all career grade doctors on national terms and conditions of service in terms of statutory rest breaks. This is described in greater detail in section 4 of this procedure.
- 3.4 Managers must review rotas on a regular basis and must make necessary adjustments to ensure the working time limit is adhered to.
- 3.5 This working time limit does not prejudice the choice of staff. Staff wishing to work in excess of the working time limit must complete a waiver form to opt out of the Working Time Regulations (see Appendix 1).
- 3.6 Should this then be rescinded the employee must write to their Line Manager, giving 7 days' notice, confirming that they no longer wish to opt out.
- 3.7 Workers who undertake paid or unpaid employment in addition to their role within the Trust are required to inform their line Manager of the number of hours worked per week. If the total number of hours for all jobs exceeds 48 hours per week, the worker should sign a waiver form with the Trust to opt out of the 48 hour limit.
- 3.8 To ensure equality Line Manager's will have the discretion, through liaising with the individual, and appropriate individuals such as occupational health or human resources to reject employees request to work in excess of 48 hours. This discretion will be applied in situations where there may be a health and safety risk, concerns regarding the employee's wellbeing or a risk to patient safety.

4.0 SCHEDULE 21 DEROGATIONS

- 4.1 A national agreement reached between the Department of Health and representatives of career grade Medical and Dental staff under Regulation 21 (paragraph 3) excludes the application of the Regulation relating to night working, daily rest, weekly rest and breaks at work but it does so on the basis that an equivalent period of compensatory rest will be provided. Compensatory rest should be available to doctors within a reasonable period.

5.0 STATUTORY REST BREAKS

- 5.1 It is the responsibility of Line Managers to organise staff rotas and working hours so as to accommodate the following rest periods for each employee. However, the health roster system has been set up to adhere to the following:
 - 5.1.1 11 hours uninterrupted rest in every 24-hour period and
 - 5.1.2 24 hours rest in every seven days OR the equivalent rest over a 14 day period, either as one 70 hour period or two 35 hour periods and
 - 5.1.3 20 minutes **unpaid** rest for workers working at least a 6-hour shift. Rest breaks could be accommodated by existing lunch or other (unpaid) arrangements for staff.

5.1.4 30 minutes break if you are under 18 if their work lasts more than 4.5 hours.

5.2 It is essential that the Line Managers provide the facility for this rest to be taken, and that they are able to evidence this on request as part of Trust monitoring processes.

5.3 Where workers feel that Managers are not allowing or facilitating rest breaks they should refer to the Organisation's **Grievance Policy** (HR2).

6.0 COMPENSATORY REST

6.1 Compensatory rest is a period equivalent to the rest time lost, e.g. If the worker had only 10 hours rest instead of 11 hours, then he/she is entitled to 1 hour's compensatory rest.

6.1.1 If it is not possible for a statutory / contractual rest break, or a part of it, to be taken at the recommended time, due to service requirements, then it should, as a rule, be taken at the earliest available opportunity.

6.2 Where staff are not able to take an agreed work rest break because of unforeseen, emergency or exceptional circumstances, compensatory rest must be taken at the next earliest, available opportunity.

6.3 Late starting or early finishing of the shift should not be taken as a routine replacement for the provision of an in-work rest break

6.4 In consultation with the worker, it is the responsibility of the line manager, to ensure that a compensatory rest is taken within working hours appropriately.

7.0 NIGHT WORKERS

7.1 Managers shall arrange rotas so that night shifts do not exceed 8 hours work per night averaged over a rolling 17 week period (24 week period for medical and dental staff).

7.2 The Trust will provide free annual health checks to all staff who work night duty, including those who work night shifts periodically (e.g. junior medical staff) If either a Line Manager or worker express health concerns consequent to working repeatedly at night, the employee may be referred to Occupational Health for advice. Employees can also self-refer to Occupational Health.

7.3 Night workers who are pregnant, breast feeding or new mothers must be transferred from night to day work if it is the opinion of doctor, midwife or occupational health that the night work is likely to pose a risk. If there is no suitable day work available the staff member should be excluded from work on full pay until it is confirmed that it is safe for them to return or until they commence maternity leave

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