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Ymddiriedolaeth GIG
Prifysgol Felindre
Velindre University
NHS Trust

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WORKING TIME REGULATIONS

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CONTENTS

1. GLOSSARY OF TERMS	3
2. INTRODUCTION AND AIM.....	4
3. OBJECTIVES	4
4. SCOPE	4
5. ROLES AND RESPONSIBILITIES	4
6. SUMMARY OF THE WORKING TIME REGULATIONS AND LEGISLATIVE REQUIREMENTS.....	5
6.1 WORKING TIME	5
6.2 WORKING WEEK	5
6.2.1 JUNIOR DOCTORS	5
6.2.2 YOUNG WORKERS.....	5
6.3 ON-CALL STAFF	6
6.4 AGREEMENT TO EXCLUDE THE MINIMUM.....	6
6.5 REST AND BREAK PERIODS.....	6
6.6 COMPENSATORY REST	7
6.7 NIGHT WORKERS.....	8
6.8 MOBILE WORKERS	8
6.9 SECONDARY EMPLOYMENT.....	8
6.10 ANNUAL LEAVE	9
7. MONITORING AND REVIEWING THE POLICY.....	9
8. GETTING HELP	10
APPENDIX 1 – WORKING TIME REGULATIONS OPT OUT AGREEMENT	

1. GLOSSARY OF TERMS

The Regulations	The Working Time Regulations, 1998
Adult Worker	A person working aged 18 years and older
Young worker	A person working aged 16 – 18 years old
Night Worker	Is a person who works at least 3 hours of the working time at night time (between the hours of 23:00 and 06:00)
Agreement to Exclude the Maximum	The written agreement between the employer and a person working to be excluded from the provisions set out in The Regulations.
Mobile Worker	A person whose work activities or duties require the operation of a motor vehicle to provide a service to passengers or the transport of goods by road

2. INTRODUCTION AND AIM

The Working Time Regulations, 1998 (The Regulations) is a legal requirement in UK law, that puts the European Working Time Directive into practice. This came into force in the UK on 1st October 1998. The Regulations place controls on working hours and are regarded as an integral element of managing health and safety at work and promoting health and wellbeing.

The Regulations introduced new limits on weekly working time, rest entitlements, annual leave and made special provisions for working hours and health assessments, in relation to night workers. They also implemented the provisions set out in the Young Workers Directive, which relates to the working time of a young worker.

Velindre University NHS Trust is committed to protecting the health and safety of all staff and the Trust recognises that control on working hours is an integral element of managing health and safety at work and will therefore comply with the principles The Regulations, as far as the needs of the service permit.

The Trust will endeavour to ensure that working hours arrangements introduced as a consequence of this policy do not discriminate against employees. Employees will therefore not suffer any detriment, should they exercise any of their entitlements as contained in the Regulations.

3. OBJECTIVES

This document will explain individual roles and responsibilities to enact The Regulations and summarise some of the key requirements of The Regulations. It is important to note that this document should be read alongside the full legislation <https://www.legislation.gov.uk/uksi/1998/1833/contents/made>

4. SCOPE

The procedure applies to all Trust employees and workers (including hosted organisations).

5. ROLES AND RESPONSIBILITIES

Managers are expected to ensure that all Trust employees and workers are working within the parameters of The Regulations.

Managers are required to ensure that The Regulations are applied and that appropriate monitoring arrangements are implemented within their departments, to monitor the hours that their employee's work, rest periods etc.

Managers should therefore not develop shifts or working patterns, which encourage or involve excessive working hours.

All employees are expected to act responsibly and comply with The Regulations.

All employees are required to notify the Trust if they undertake secondary employment, in accordance with the terms and conditions of their contract of employment.

6. SUMMARY OF THE WORKING TIME REGULATIONS AND LEGISLATIVE REQUIREMENTS

The main principles and requirements of The Regulations which affect the Trust and its employees and workers are:

6.1 WORKING TIME

Working Time as set out in the regulations is;

- Any period which a worker is at the disposal of the employer to carry out activities or duties
- Any period which a worker is receiving relevant training
- Any additional periods which can be treated as working time within The Regulations

Working Time is not considered;

- Any period of travel between their home and workplace;
- Any time resting at the end of the working day, when required to stay overnight
- Attending an event and not carrying out work related activities or duties
- Time spent on-call, when away from the workplace and not carrying out work related activities or duties
- Rest and break periods

6.2 WORKING WEEK

A typical full-time working week will follow a notional working week of 37.5 hours. The maximum working week is an average of 48 hours worked per week, including overtime, calculated over a 17 week reference period. The average of 48 hours per week, should also take into account any time worked by the employee or worker in additional posts or for another employer.

6.2.1 JUNIOR DOCTORS

It should be noted that a junior doctor's average working week should not exceed 48 hours. Their reference period will be calculated over a 26 week period.

6.2.2 YOUNG WORKERS

Employee's ages 16 – 18 years old cannot enter into an Agreement to Exclude the Maximum, as such they are not permitted to work in excess of 8 hours a day or 40 hours per week.

6.3 ON-CALL STAFF

Employees and workers who are required to work on-call, will be regarded as working from the time they are required to undertake any work related activity. Where an employee is on-call but is otherwise free to use the time as their own, this time will not be counted as working time, but will be used to calculate the on-call payment.

6.4 AGREEMENT TO EXCLUDE THE MINIMUM

Adult workers may choose to work more than the 48 hours average weekly limit, on a voluntary basis, if this is agreed with their manager. Should an employee choose to agree to work more than 48 hours per week, they will be required to sign a Working Time Regulations Opt Out Agreement Form. In so doing they will be confirming that they wish to be excluded from the maximum 48 hour week provision.

An Agreement to Exclude the Minimum may either relate to a specified period or apply indefinitely. Employees can rescind this agreement at any time, by giving at least seven calendar days' notice, in writing.

The employee's manager is required to review with the employee, on an annual basis, whether or not it is appropriate for the employee to continue to work in excess of the 48 hour week. This may be reviewed on a more regular basis, if the arrangement appears to be affecting the employee's work performance or / and their health and wellbeing. It may, in such circumstances, be appropriate for the manager to seek advice from the Workforce and OD Department.

Where an employee chooses to work in excess of the 48 hour limit, consideration must be given by the Trust, as to whether the employee's working hours foster and support safe working practice.

A risk assessment should be carried out to establish whether or not working in excess of the limit impacts on safe working arrangements. The Trust reserves the right to suspend or refuse to approve an Agreement to Exclude the Maximum, if there is a belief, held by the manager that the hours worked by the employee could result in harm to patients, donors, service users or colleagues. The reasons for suspending or refusing an Agreement to Exclude the Maximum will be explained to the employee, in writing by their manager.

6.5 REST AND BREAK PERIODS

An adult worker is entitled to the following rest periods and breaks:

- An uninterrupted weekly rest period of 24 hours for each 7 days worked for the Trust
- 11 consecutive hours daily rest in every 24 hour period worked (alternatively, compensatory rest can be given).
- A minimum of 20 minutes uninterrupted break if working 6 hours or more in a work day.

Young workers are entitled to the following rest period and breaks:

- An uninterrupted weekly rest period of 48 hours for each 7 days worked for the Trust
- 12 consecutive hours daily rest in every 24 hour period worked
- A minimum of 30 minutes uninterrupted break if working 4.25 hours or more in a work day

In line The Regulations, a weekly rest period must not include any part of the 11 consecutive hours daily rest period, unless this is justified by objective or technical reasons or reasons concerning the organisation of work.

Should any employee believe that the hours they are required to work are excessive and/or disruptive to adequate rest, they should bring the matter to the attention of their manager, as soon as practicably possible. In such circumstances, the manager must take account of the employee's concerns and the employee must not be compelled to continue working excessive hours, irrespective of whether or not the employee has previously signed an opt out agreement.

Reasonable adjustments to rest requirement will be made for employees as a result of any disability, as provided for in the Equality Act (2010).

6.6 COMPENSATORY REST

Compensatory rest will be given to employees that have a rest period interrupted, e.g. staff on-call. This time will be reallocated in accordance with local on-call agreements.

Where it is not possible for an employee to achieve 11 hours rest between shifts, compensatory rest should be given at another time. In practice there may be less than 11 hours rest between shifts one day and much longer than 11 hours on another day. Therefore, on average, the 11 hours requirement should be met.

The 11 hours consecutive rest can be varied as long as compensatory rest is given, for example, where it is impractical to change shift patterns or the continuity of care is required. Departmental arrangements should be agreed to ensure that a period of equivalent compensatory rest is provided.

The Trust will require staff to be flexible at times of unforeseen circumstances, e.g. major incident or unforeseeable changes in activity. Under these circumstances where rest breaks may not be practicable, compensatory rest can be given at a later time.

Managers are required to keep and maintain records of allocated compensatory rest, as evidence of their compliance with The Regulations.

6.7 NIGHT WORKERS

It is a requirement of the Trust that all new employees and workers undergo pre-employment occupational health screening. When an individual is appointed to a post that will require them to work night hours, the appointing manager must ensure that the Occupational Health Department is informed that the appointee will be required to work nights and seek advice on whether or not they are fit to undertake night work.

All night workers will be offered a free and confidential annual health assessment by the Occupational Health Department, to ensure their continued suitability to undertake night work. Occupational Health will keep records of these assessments.

If an employee and worker that works nights develops an illness or medical condition that may impact on their ability to continue to perform night work, the manager is responsible for arranging a health assessment appointment with the Occupational Health Department to determine whether they are fit to continue undertaking their contractual night work. Should this assessment determine that the employee or worker is not fit to undertake night work on a temporary or permanent basis, alternative daytime employment will be sought, wherever possible, via the Trust's Redeployment Procedure.

6.8 MOBILE WORKERS

The Road Transport Working Time Regulations, 2005 covers employees and workers who are required to drive a vehicle for transport of passengers or goods on the road.

Under The Road Transport Working Time Regulations, 2005 working time must not exceed:

- an average of 48 hours per week over a 17 week reference period;
- 60 hours in any single week, including overtime;
- 10 hours in any 24 hour period, if working at night;
- Mobile workers must not work more than 6 hours without a break.
- Mobile workers, working time over 6 hours but is less than 9 hours are entitled to a break lasting at least a 30 minutes;
- Mobile workers, working time over 9 hours they are entitled to a break lasting at least 45 minutes;
- Each break can be made up of separate periods, but each period of break must be at least 15 minutes

Mobile workers are not permitted to opt out of the average weekly working limit set out in The Road Transport Working Time Regulations.

6.9 SECONDARY EMPLOYMENT

All employees are required to notify their manager if currently have or wish to undertake secondary employment (this includes any self-employed work).

The Trust has a duty of care to protect the health and safety of our patients, donors, service users and employees. Therefore employees that have secondary employment must ensure they have adequate rest periods and that their combined working hours are not excessive, to the extent that they could endanger their own health, safety and wellbeing and that of the Trust's patients, donors, service users and colleagues.

Employees are therefore required to inform their manager any secondary employment, using the Declaration of Secondary Employment Form. Should their secondary employment results in them working more than a combined average of 48 hours, over a 17 week reference period (or a 26 week reference period for junior doctors).

Where an employee has informed their manager that they undertake secondary employment, the manager will review the secondary employment declaration annually with the employee. This may be reviewed on a more regular basis, if the arrangement appears to be affecting the employee's work performance or / and their health and well being. It may, in such circumstances, be appropriate for the manager to seek advice from the Trust's Occupational Health Department.

6.10 ANNUAL LEAVE

The Working Time Regulations provides employee and workers with a minimum annual leave entitlement, which includes bank holidays.

Employees will receive contractual annual leave and bank holiday entitlements, which are in excess of The Regulation requirements, in line with their respective Terms and Conditions of Employment. More details can be found in Annual Leave and Bank Holiday Policy.

Bank Workers will receive statutory annual leave and bank holiday entitlements.

7. MONITORING AND REVIEWING THE POLICY

All Trust managers are responsible for implementing and monitoring compliance with The Regulations, in their areas of responsibility. Managers should ensure there is appropriate evidence of compliance to The Regulations on the employee or workers employment record. These records must be able to demonstrate the limits are being adhered to in respect of the:

- maximum working week;
- rest breaks;
- daily rest;
- weekly rest;
- night work

Where there is an entitlement to compensatory rest, this must be evidenced on the employee or workers employment record.

Opt Out Agreements and Declaration of Secondary Employment records must also be added to the employment record for the employee or worker.

All Working Time records, must be kept for a minimum of two years, from the date on which they were made, to ensure compliance with the regulatory requirement.

This document will be reviewed and updated when necessary to reflect any subsequent legislation or legal advice.

8. GETTING HELP

Further information and advice on The Regulations is available from the Trusts Workforce and OD Department.

Should an employee have a concern relating to The Regulations or the application of The Regulations, it will be dealt with in accordance with the Trust's Respect and Resolution Policy.



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WORKING TIME REGULATIONS – OPT OUT AGREEMENT

The Agreement complies with the Working Time Regulations Statutory Instrument 1998/1833 Regulations (5) 1.

The Agreement provides for you a voluntary offer to enter into an agreement with Velindre University NHS Trust to opt out of the 48 hour limit in respect of total weekly average hours required in your case over an average 17 week period (excluding Junior Doctors in training as their average weekly working time is calculated using a 26 week reference period).

Your minimum weekly hours of work will continue to be specified in your contract of employment with the Trust.

Your signature is require for The Agreement to be accepted.

Name			
Job title on appointment			
Payroll Number			
Division / Organisation		Department	
Start Date in Post			

The Agreement

Please tick to confirm each of the following:

I agree that the 48 hour average weekly limit specified in the Working Time Regulations 1998 Regulation 4 (1) shall not apply in my case/	<input type="checkbox"/>
I understand that this agreement will apply from and will continue indefinitely, or until such a time that I provide notice to withdraw The Agreement. I am aware that I am under no obligation to sign this agreement and that it is illegal for me to be subjected to any detriment if I decline to sign.	<input type="checkbox"/>
Despite agreeing to opt out of the limit of 48 hours over an average 17 week period, (or 26 week period for Junior Doctors in training) I confirm that both the Trust and I have agreed to ensure extra hours worked do not impair my efficiency or expose colleagues, the public or property to risk.	<input type="checkbox"/>
I confirm that I agree that both the Trust and I will keep accurate records of my working hours in accordance with the regulation requirements.	<input type="checkbox"/>
I agree to give, in writing, a minimum of 7 days' notice to bring this agreement to an end. Less notice will be considered under exceptional circumstances.	<input type="checkbox"/>
I understand I have a legal obligation to inform the Trust if I currently work for, or subsequently plan to work for a second employer (or undertake self-employment).	<input type="checkbox"/>
I understand that if I work for a second employer (or undertake self-employment) and wish to continue working over a total of 48 hours per week, I must sign a waiver for my second employer as well as for the Trust.	<input type="checkbox"/>

This section must include signatures:

Full Name	
Signature (Employee)	
Manger Name	
Manger Job Title	
Signature (Manager)	

Completed agreements must kept on the employment record for at least 2 years

One copy to be retained by the employee or worker for their record.

An annual review of The Agreement is to be undertaken by the manager and the employee or worker that should also be recorded on the employment record.