

DOCUMENT CONTROL	
Title:	Working Time Regulations Policy
Version:	3
Reference Number:	HR035
Scope:	
This policy applies to all non-medical employees of Pennine Care NHS Foundation Trust, all bank staff and all agency workers. Separate procedures apply to medical staff.	
Purpose:	
This policy aims to offer clear guidance on the contents of the regulations as well as informing managers and employees of their responsibilities.	
Keywords:	
Working Time Directive, Working Time Regulations, WTD, WTR	
Supersedes:	
Version 2	
Description of Amendment(s):	
Scope amended to include agency workers. Daily rest periods expanded to explain 'special cases'. Amended to prohibit bank work during periods of annual leave. Uploaded to new template and updated	
Owner:	
Resourcing Manager	
Individual(s) & group(s) involved in the Development:	
This document has been developed in collaboration with the following interested parties: <ul style="list-style-type: none"> • Trevor Lewin • Unions 	
Individual(s) & group(s) involved in the Consultation:	
The document has been circulated for consultation and comments have been taken into consideration and the document amended accordingly: <ul style="list-style-type: none"> • Unions • All Staff 	

Equality Impact Analysis:	
Date approved:	9 th of August 2018
Reference:	HR35 – EIA35
Freedom of Information Exemption Assessment:	
Date approved:	28 th November 2018
Reference:	POL2018-53
Information Governance Assessment:	
Date approved:	28 th November 2018
Reference:	POL2018-53
JNCC:	
Date Presented to Committee:	20 th December 2018
Presented by:	Surrya Southworth
Date Approved by Committee:	20 th December 2018
Policy Panel:	
Date Presented to Panel:	28 th January 2019
Presented by:	Trevor Lewin
Date Approved by Panel:	8 th March 2019
Policy Management Team tasks:	
Date uploaded to Trust's intranet:	8 th March 2019
Date uploaded to Trust's internet site:	8 th March 2019
Review:	
Next review date:	January 2022
Responsibility of:	Resourcing Manager
Other Trust documentation to which this policy relates (and when appropriate should be read in conjunction with):	
TAD_HR035_01	Working Time Directive Opt Out Form
Other external documentation/resources to which this policy relates:	
	The Working Time (Amendment) Regulations 2002
CQC Regulations	
This policy supports the following CQC regulations:	
	N/A

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1. INTRODUCTION

Pennine Care NHS Foundation Trust recognises that the European Working Time Directive has been implemented to protect the health and safety of workers and that it has a legal responsibility to adhere to the regulations.

2. PURPOSE

This policy aims to offer clear guidance on the contents of the regulations as well as informing managers and employees of their responsibilities.

3. RESPONSIBILITIES, ACCOUNTABILITIES & DUTIES

Trust Board

The Trust Board is responsible for endorsing and fully supporting this policy in its application.

The Workforce & OD Department

The Workforce & OD Department is responsible for providing guidance to managers and staff on the application of this policy.

The Workforce & OD Department is responsible for updating this policy in line with legislative changes.

Line Managers

Line Managers are responsible for ensuring that this policy is adhered to within their own area, and should take consideration of it when producing staffing rotas.

Line Managers should ensure that employees are made aware of this policy and understand their responsibilities in relation to it.

Line Managers must make sure that the working hours of their staff are monitored to ensure that they are not in breach of the policy.

Employees

Employees must ensure that they take appropriate breaks in agreement with their line managers and in line with this policy.

Employees must inform their Line Manager of any additional employment, and the hours that they work including any bank work.

Employees must make their manager aware if they believe that their working pattern is in breach of this policy.

4. DEFINITIONS

Working Time: The working time regulations state; that working time is when someone is working at the employer's disposal and carrying out their duties. This includes:

- Working lunches, such as business lunches
- Where a worker has to travel as part of their work
- Where a worker is undertaking training that is job related

This does not include:

- Routine travel between work and home
- Rest breaks when no work is done
- Time spent travelling outside normal working time

Training such as non-job related evening classes or day release courses.

Rest Period: Any period of work that is not working time.

Night Time: Any period of no less than seven hours, and which must include the period between midnight and five a.m.

Night Worker: Any worker, who during night time, works at least three hours of his daily working time as normal course.

Shift Work: Any method of organising work in shifts whereby workers succeed each other at the same work stations according to a certain pattern, including a rotating pattern, and which may or may not be continuous, entailing the workers to work at different times over a given period of days or weeks

Shift Worker: Any worker whose work schedule is part of shift work.

5. MINIMUM REST PERIODS

Daily Rest Periods

Workers are entitled to a period of 11 uninterrupted hours between each working day. However, in certain 'special case' workers are exempt from these rest break provisions and can be legitimately asked to work through their rest-breaks if:

- You're a shift worker who may not be able to take their daily or weekly rest periods between shifts. Shift Workers are defined as those engaged in activities involving periods of work that are split up over the day and those who work according to a certain shift pattern, where workers 'succeed' each other at the same work-station. The shift pattern may or may not be continuous, but will involve the need for workers to work at different times over a given period of days or weeks
- There's a genuine need for continuity of production/service around the clock, e.g. hospitals

- The work is affected by unusual or unforeseeable circumstances beyond anyone's control, or exceptional events, or where work is affected by an accident or risk of an accident

Breaks

Workers are entitled to a minimum (unpaid) break of 20 minutes when working more than 6 consecutive hours. This break should be taken during the 6 hour period and not at the beginning or end of it.

Where possible, the break should be taken away from the work station.

Most workers receive a lunch break, which fulfils the requirements.

Weekly Rest Period

Workers are entitled to 1 whole day off a week.

Days off can be averaged over a 2 week period, meaning that workers can take 2 days off a fortnight.

Days off are taken in addition to paid annual leave.

6. MAXIMUM WEEKLY WORKING TIME

Weekly Working Time Limits

The maximum weekly working week for all staff except Doctors in training is 48 hours averaged over a 17 week reference period.

In exceptional circumstances, staff may be asked to extend the reference period to a maximum of 26 weeks.

7. STAFF WITH MORE THAN ONE EMPLOYER

Worker Responsibility

Workers are responsible for ensuring that their own health, safety and welfare and that of other is not adversely affected by the total hours worked at this Trust or combined with hours worked in a second job.

Workers have a duty to disclose to their line manager if they have a second job and the number of additional hours they work.

Workers with a substantive post and a bank post must ensure that the combination of hours worked do not exceed the 48 hour maximum working week.

Restriction of Working Time

Where appropriate, the Trust reserves the right to restrict the hours that an employee, bank or agency worker works in order to ensure compliance with the Working Time Regulations. This will include an adjustment to pay.

8. NIGHT WORKERS

Maximum Working Hours

Normal hours of work for night workers must not exceed an average of 8 hours per 24 hours over a 17 week reference period.

Work involving Special Hazards/Physical or Mental Strain

Employees doing work involving hazards or heavy physical or mental strain should not work more than 8 hours in any period of 24 hours during which they perform night work.

Health Assessments

The Trust provides health assessments for all workers on appointment as part of a pre-employment check.

Health assessments will then be provided to employees upon request. Any requests should be made to the Occupational Health Department.

Transfer to Day Work

If Occupational Health advises that a night workers health is being adversely affected by working nights, the night worker is entitled to be transferred, wherever possible, to a day post.

9. ON-CALL

On-call time is time during which the worker is obliged to be at work so that they can be called upon to carry out their duties. Workers who are required to sleep-in at the Trust are considered to be working, and the time they spend sleeping will be counted towards working time.

Inactive on-call time is time during which a worker makes themselves available to come into work, however is not actually at work or travelling to work. This is not classed as working time. Active on-call time, which is counted as working time commences when the worker leaves their home to travel to work, and ends at the point at which they arrive back at their home.

10. COMPENSATORY REST

Where a worker is required to work during any time that is supposed to be rest time, then they must be permitted to take equivalent periods (the same number of hours lost) of compensatory rest.

Compensatory rest should normally be given within 72 hours.

11. ANNUAL LEAVE

The full time equivalent entitlements are:

- On appointment to the NHS - 27 days plus 8 bank holidays
- After 5 years NHS service - 29 days plus 8 bank holidays
- After 10 years NHS service - 33 days plus 8 bank holidays

The annual leave year runs from 1st April to the 31st of March.

Workers are required to take the minimum statutory leave of 20 days. A maximum of one working week can be carried over subject the agreement from the line manager.

Workers with a permanent or temporary contract may not undertake any bank work while on annual leave. Should a substantive worker wish to work a shift whilst on annual leave the annual leave must first be cancelled.

12. EXEMPTIONS

Under the Working Time Directive, wherever possible, working time should be in accordance with the regulations, however where it is not possible to act in line with this, compensatory rest can be given. In exceptional cases in which it is not possible, for objective reasons, to grant equivalent periods of compensatory rest, the workers concerned should be afforded appropriate protection, i.e. the Trust should ensure that their Health and Safety is not compromised.

Daily and Weekly Rest

Circumstances in which compensatory rest may not be given are:

- In the case of shift work activities, each time the worker changes shift and cannot take daily and/or weekly rest periods between the end of one shift and the start of the next one.
- In the case of activities involving periods of work split over the day, particularly those of cleaning staff.

13. YOUNG WORKERS

The Working Time Regulations lay down special provisions for young workers. A young worker is a worker who has reached the age of 15, but not the age of 18 and who is over compulsory school age.

Daily Rest Periods: Young workers are entitled to a minimum daily rest period of 12 consecutive hours per 24 hour period.

Breaks: Young workers are entitled to a minimum uninterrupted unpaid break of 30 minutes when working more than 4.5 consecutive hours. The break must not be taken at either the start, or the end of a working day.

Weekly Rest Periods: Young workers are entitled to an uninterrupted rest period of not less than 48 hours in each 7-day period.

Night Work: Young workers may only work between the hours of 10pm and 6am if they have had the opportunity of a free Health and Capacities Assessment carried out by Occupational Health. They should then be offered further assessments at regular intervals.

14. FURTHER INFORMATION

For Further information please contact the Workforce & OD Department.

15. EQUALITY IMPACT ANALYSIS

As part of its development, this document was analysed to consider / challenge and address any detrimental impact the policy may have on individuals and or groups protected by the Equality Act 2010. This analysis has been undertaken and recorded using the Trust's analysis tool, and appropriate measures will be taken to remove barriers and advance equality of opportunity in the delivery of this policy / procedure.

16. FREEDOM OF INFORMATION EXEMPTION ASSESSMENT

Under the Freedom of Information Act (2000) we are obliged to publish our policies on the Trust's website, unless an exemption from disclosure applies. As part of its development, this policy was assessed to establish if it was suitable for publication under this legislation. The assessment aims to establish if disclosure of the policy could cause prejudice or harm to the Trust, or its staff, patients, or partners. This assessment has been undertaken using the Trust's Freedom of Information Exemption Guide, and will be reviewed upon each policy review.

17. INFORMATION GOVERNANCE ASSESSMENT

This Policy has been analysed to ensure it is compliant with relevant information law and standards as in place at the time of approval, and are consistent with the Trust's interpretation and implementation of information governance components such as data protection, confidentiality, consent, information risk, and records management.

Compliance will be reviewed against any changes to legislation / standards or at the next review of this document.

18. SAFEGUARDING

All staff have a responsibility to promote the welfare of any child, young person or vulnerable adult they come into contact with and in cases where there are safeguarding concerns, to act upon them and protect the individual from harm.

All staff should refer any safeguarding issues to their manager and escalate accordingly in line with the Trust Safeguarding Families Policy and Local Safeguarding Children/Adult Board processes.

19. MONITORING

The effective application of this policy, including adherence to any standards identified within will be subject to monitoring using an appropriate methodology and design, such as clinical audit.

Monitoring will take place on a biannual basis and will be reportable to the Quality Group via the Clinical Effectiveness and Quality Improvement Team.

20. REVIEW

This policy will be reviewed three-yearly unless there is a need to do so prior to this; e.g. change in national guidance.

21. REFERENCES

Equality Act 2010

Freedom of Information Act 2000

Working Time (Amendment) Regulations 2002