# Working Time Regulations (NI) Guidance

**Reference Number:**

**NHSCT/10/235**

**Responsible Directorate:**

Human Resources

**Replaces (if appropriate):**

Legacy Homefirst Working Time Regulations and Declaration of Secondary Employment Pro-formas

**Policy Author/Team:**

Elizabeth Brownlees  
Assistant Director of Human Resources

**Type of document:**

Trust Wide Guidance

**Approved by:**

Jacinta Melaugh  
Director of Human Resources

**Date Approved:**

14 December 2009

**Date Policy disseminated by the Policy Unit:**

6 January 2010

**NHSCT Mission Statement**

To provide for all the quality of services we would expect for our families and ourselves
Working Time Regulations (NI) Guidance

December 2009
The Legislation

The Working Time Regulations implement the Working Time Directive in Northern Ireland and were introduced on 23rd November 1998. The Regulations created measures designed to protect workers against adverse effects on their health and safety caused by working excessively long hours or having inadequate rest or disrupted work patterns.

The stated aim of the Working Time Regulations is to ‘improve health and safety at work by introducing minimum rules for employees relating to daily and weekly rest periods, rest breaks, annual leave entitlements, length of working week, and on night work.’

The Regulations introduce a number of entitlements for workers, however some groups of workers are presently excluded, for example Junior Doctors.

The basic entitlements and protections the Regulations provide are:

1. A limit of an average of 48 hours per week including overtime, over a 17-week reference period.

   (In exceptional circumstances, for some staff and with the agreement of trades unions locally, the reference period may be extended to 26 weeks. From 14 October 2009, for the duration of the flu pandemic and subject to local agreement with trades unions, the reference period for all staff may be extended to a maximum of 52 weeks.)

2. A limit of an average of 8 hours work in 24 hours over a 17-week reference period for night workers.

3. A limit of an absolute 8 hours work in 24 hours for night workers where the work has been risk assessed to identify special hazards.

4. A right for night workers to receive free health assessments. (N.B. ref. Paragraph 7.2 of the Working Time Regulations for additional rights for young workers)

5a. An entitlement to 11 consecutive hours rest in each 24-hour period.

5b. Young workers, under 18 years old, have a right to 12 hours consecutive rest in a 24-hour period.

6a. An entitlement to an uninterrupted rest period of not less than 24 hours in each 7-day period or 48 hours in a 14-day period.

6b. Young Workers are entitled to an uninterrupted rest period of not less than 48 hours in each 7-day period.

7a. A right to a rest break of at least 20 minutes if the working period is longer than 6 hours.
7b. Young Workers are entitled to a rest break of at least 30 minutes if the working period is longer than 4.5 hours.

8. A right to 5.6 weeks paid leave per annum (from 1 April 2009).

Responsibilities of Managers

Maximum Weekly Working Time

Managers will:

- organise staff working patterns so that no member of staff works more than an average of 48 hours each week, over a 17 week reference period;

- review working patterns regularly to ensure compliance with WTR health and safety requirements and to determine if service needs are being met.

Working Time – For those staff who are required to be resident when “on call” all of their time will be counted as work as they are at their employers disposal and carrying out their duties. For all other “on call” staff (whether they choose to sleep-in or whether they are on-call from home) working time is to be counted for the period that they give advice over the telephone or the period from leaving home once called to go to work to returning back home.

Rest periods

Managers will:

- organise work periods to allow 11 consecutive hours daily rest in each 24-hour period, or 12 hours consecutive rest in a 24-hour period for Young Workers, under 18 years old;

- organise work periods to allow 24 uninterrupted hours weekly rest in every 7 days or 48 hours in a 14-day period, or 36 hours in each 7-day period for Young Workers;

- organise work periods to allow a rest break, away from the workstation, of at least 20 minutes if the working period is longer than 6 hours, or at least 30 minutes for Young Workers if the working period is longer than 4.5 hours;

- where it is not possible to achieve breaks away from the workstation, provide staff with hygienic facilities within the workplace to store, prepare and/or consume food and drinks;
• organise work periods, as far as possible, to allow full rest entitlements to be achieved, limiting the circumstances in which compensatory rest will be required. Managers will ensure that exclusions/modifications of rest periods will be based on objective reasons, for example, reasons connected with continuity of care or service;

• will provide immediate compensatory rest in circumstances where staff, patient or service user safety could be compromised if not granted, for example a member of staff who has worked on call for the majority of the call period, overnight and is also rostered to work the next day.

• ensure staffing levels are adequate to provide rest periods;

• ensure that staff have a minimum of 90 hours rest each week.

Night workers

Night time is a period of at least seven hours which includes the period from midnight to 5 am. A night worker is someone who is classed as working for at least three hours daily during night-time hours as a “normal course”. “Normal hours” are those which are regularly worked and/or fixed by contract of employment. The calculation is not affected by absence from work, as a worker’s normal hours of work would remain the same regardless of the “actual” hours worked. Time worked as overtime is not normal work unless an employee’s contract fixes a number of hours.

Managers will:

• identify which staff meet the definition of night worker;

• ensure that personnel specifications for jobs in their area of responsibility, indicate if the postholder will be required to work as a night worker;

• organise work periods to support an average work period of 8 hours, over the 17-week reference period;

• assess risks to health associated with night work as part of the Trust’s overall arrangements for risk management;

• where it is identified that a night worker’s work involves ‘special hazards’ or heavy physical or mental strain, maintain records of ‘special hazard’ identified, the measures implemented to reduce the risk, the hours worked by night workers in each shift, and review regularly;
• organise work periods for night workers whose work involves special hazards or heavy physical or mental strain, to be no longer than 8 hours in any 24-hour period;

• as necessary participate, in conjunction with Health & Safety Committee, in reviews where jobs may be identified as 'special hazard'.

Compensatory Rest

All exclusions/modifications of rest periods will be based on objective reasons, for example this may include reasons connected with continuity of care or service. When this occurs staff are entitled to compensatory rest.

Managers will:

• maintain records of Compensatory Rest awarded. Compensatory rest is a period of rest the same length of time as the period of rest a worker has missed.

• where the disturbance is significant, have in place arrangements to enable the member of staff to have compensatory rest granted straight away.

**Significant disturbance** is defined as a period of disruption to rest which lasts more than 1 hour, or having 2 or more disruptions to rest (e.g. call ins) during the midnight to 7 am period.

Immediate compensatory rest is required in circumstances where staff, patient or service user safety could be compromised if not granted e.g. a member of staff who has worked on-call for the majority of the call period, overnight and is also rostered to work the next day.

Where an employee has been on call overnight and has not been significantly disturbed between midnight and 7 am, the practice of working a work pattern the following day will be allowed to continue with the appropriate compensatory rest being provided within 14 days.

Where compensatory rest is required to be given during a rostered duty period, it is not expected to be made up at another time.

• will not roster staff who are on a “Stand-by” duty overnight to work either the day of the duty or the following day.
**Annual leave**

Managers will:

- maintain records of annual leave, which demonstrate levels of annual leave taken by all staff.

- ensure that all staff take a minimum of 5.6 weeks (with effect from 1 April 2009) leave (annual leave and statutory days) within each leave year, pro rata for part-time staff.

**Departmental induction**

Managers will:

- cover the main points of WTR with new staff and record this on the Departmental Induction checklist.

- ensure a Declaration of secondary employment form (Appendix 1) is completed as necessary by staff and forward to the Human Resources Department (Workforce Governance).

- if staff are likely to work more than the 48 hour average with undertaking overtime, bank work or, work for other employers, ensure the member of staff agrees in writing to working more than the 48 hour average. This is referred to as an 'Opt out' agreement. Section B of the Declaration of secondary employment form should be used for this purpose. The Manager will send the completed form to the Human Resources Department (Workforce Governance).

**During employment**

Managers will:

- ensure that the Declaration of secondary employment form, Sections A and/or B is completed, if at any time during employment with the Trust, a member of staff notifies them of any work they take on in addition to the work in their current post, and/or will be working more than an average of 48 hours for each seven days.

- forward a copy of the completed form to the Human Resources Department (Workforce Governance).
**WTR audit**

Managers will:

- complete a WTR questionnaire issued by the Human Resources Department as required, to identify areas of non-compliance;
- produce an action plan to address any area of non-compliance identified, to mitigate risk and achieve compliance.

**Responsibilities of the member of staff**

Staff will:

- take responsibility for their own health so they can carry out the responsibilities of their job;
- not work more than an average of 48 hours per week through overtime, bank, or by working for another employer, unless otherwise agreed in writing;
- inform their Manager immediately in writing of any other work they take on in addition to the hours they work in their post, the hours of such work and for whom they are working;
- complete a Declaration of secondary employment form (Appendix 1) at the commencement of/during their employment with the Trust as appropriate;
- if they wish to exceed the 48 hour average, write to their Manager in advance and sign an ‘Opt out’ agreement. Section B of the Declaration of secondary employment form is used as the ‘Opt out’ agreement.
- take a minimum of 5.6 weeks (from 1 April 2009) leave per year (annual leave and statutory days), pro rata for part-time staff.

**Responsibilities of Human Resources Department**

The Human Resources Department will:

- as part of the recruitment and selection process, arrange pre-employment health assessments with the Occupational Health Service;
- at the Trust induction programme, make sure staff are aware of the Working Time Regulations;
• cover the Working Time Regulations at the Manager’s induction training programme;

• provide advice to Managers on Working Time Regulations as necessary;

• maintain a central register of ‘Opt out’ agreements forwarded by Managers to the Human Resources Department;

• conduct an annual WTR survey, share analysis with the Joint Negotiating Consultative Forum, facilitating negotiation on action plans as required, and forward summary action plan template in respect of the Trust to DHSSPS;

• review and update guidance as and when necessary.

Responsibilities of Occupational Health Service (OHS)

The Occupational health Service will:

• carry out pre-employment health assessments;

• on an annual basis offer a health assessment to all staff who meet the definition of night worker;

• hold appropriate records including fitness for night work considered as part of the pre employment health assessment, health assessments requested by night workers;

• provide information on an anonymised basis for reporting purposes as necessary.
Declaration of secondary employment (including bank employment) for the purposes of Working Time Regulations 1998

This form must be completed by the member of staff at departmental induction, and/or when the member of staff advises their manager of additional work they take on.

Name of employee: ______________________________________________

Grade: _______________________________________________________

Department/facility: _____________________________________________

Contracted hours: ______________________________________________

1.1 SECTION A

Do you have any employment with this Trust (other than that stated above), or any other employer including bank employment?

*Yes ☐ Please provide details of this below in respect of your employment (if you have more than one please continue on a separate sheet).

*No ☐ Please note that your contract of employment states that you must inform your manager immediately of additional work you take on. If this occurs please complete a further copy of this form.

<table>
<thead>
<tr>
<th>Name of employer:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position:</td>
</tr>
<tr>
<td>Permanent/Temporary/Bank:</td>
</tr>
<tr>
<td>Number of contracted hours:</td>
</tr>
<tr>
<td>Details of any hours worked in addition to contracted hours:</td>
</tr>
<tr>
<td>Current annual leave entitlement:</td>
</tr>
</tbody>
</table>

Signed:__________________________________
Date: ____________________________________

* If you wish to work more than an average of 48 hours for each seven days (including overtime) you must also put this in writing by completing Section B.
**SECTION B**

**Agreement to work more than the 48 hours average weekly limit under the Working Time Regulations**

<table>
<thead>
<tr>
<th>I agree to work more than the 48 hours average weekly limit under the Working Time Regulations.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>This agreement <em>is effective from ___________________ to ___________________</em> /is for an indefinite period.</strong></td>
</tr>
<tr>
<td>I understand that to end this agreement I must give three months written notice to my manager.</td>
</tr>
<tr>
<td>Signed: _____________________________________</td>
</tr>
<tr>
<td>Date:  ______________________________________</td>
</tr>
</tbody>
</table>

* delete as appropriate

cc: Workforce Governance, Human Resources Department, Holywell Hospital, 60 Steeple Road, Antrim, BT 41 2RJ

**December 2009**