



Working Time Policy

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3.0	February 2019	Christine Bereton	A	TMG approved the amended date as policy is fit for purpose.
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3.8	August 2024	Rachel Kristiansen	D	Update of Policy following PDG 01.08.24
4.0	August 2024	Risk Team	A	Policy approved in August 2024 People and Culture Group

A = Approved D = Draft

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Associated Documentation:

Meal Break Standard Operating Procedure

Islamic Prayer Guidance

Supporting Staff who have insulin dependent diabetes Guidance

Menopause Policy

Secondary Employment Policy

Flexible Working Policy

New Parent Support Policy, Manager and Employee guidance.

Agenda for Change Terms and Conditions Handbook

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Staff Summary

Working hours in the UK are governed by the Working Time Regulations 1998, Working Time (Amendment) Regulations 2002, 2004, 2007 & 2009. These regulations limit the working week of a worker or an employee to an average of 48 hours per week, although there is the ability to opt out.
These regulations also give workers and employees the right to paid leave and specified rest breaks.
YAS recognise the valuable contribution made by volunteers and extends this policy to provide cover for working hours and rest break entitlements as enjoyed by the employees and workers of the Trust as defined hereafter.
The regulations are in place to protect and promote the health and safety of employees and workers. Due to the nature of the service, there may be exceptional circumstances where the Trust is not able to comply with the regulations such as major accidents.
Workers or employees who wish to opt out of the 48hour cap can do so by completing the form in Appendix C . Staff may wish to consult their trade union representative prior to doing so.

1.0 Introduction

- 1.1 This document sets out the Trusts policy relating to the Working Time Regulations 1998, Working Time (Amendment) Regulations 2002,2004, 2007 & 2009 and its application to employees, volunteers and workers within the organisation. It will specify the individual's rights and the Trust's obligations.
- 1.2 Yorkshire Ambulance Service is committed to the health and safety of its employees, workers and volunteers and recognises its obligations as set out in the Working Time Regulations 1998, (Amendment) 2002,2004, 2007 & 2009.
- 1.3 Under health and safety at work legislation there is a responsibility placed on all employers for the health, welfare, and safety of those who work for them, as far as reasonably practicable. The management and control of working hours should be regarded as an integral element in promoting and managing the health and welfare of those who work for us. It is considered that successfully doing so will help reduce the risk of ill health, fatigue, errors, omissions, incidents, or accidents in the workplace, ultimately leading to the delivery of better patient care.
- 1.4 In accordance with the regulations there may be circumstances where the provisions of this policy cannot be enacted, e.g., in the event of a major accident or some other significant occurrence. In the event of such circumstances all possible actions should be taken to maintain employee and patient safety and wellbeing as per section 27.5 of NHS Terms and Conditions of Service Handbook. (Amendment number 50, Pay Advisory 01/2023).

2.0 Purpose/Scope

- 2.1 This policy document provides individuals with clear information and guidance on their entitlements. The purpose of this policy is to ensure the Trust meets its legislative requirements in complying with the Working Time Regulations 1998, Working Time (Amendment) Regulations 2002,2004,2007 & 2009 and ensures that the rights of employees and workers are protected, so that their health and safety at work are not endangered.

- 2.2 This policy will apply to all employees, volunteers, and bank workers. It does not apply to any doctors in training.

3.0 Process

3.1 Introduction

- 3.1.1 The Working Time Regulations limit hours worked to a maximum average of 48 hours per week over a 17-week reference period. Individuals may choose at any time to agree to work more than the 48 hours average weekly limit (Opting out) by completing the proforma in **Appendix C**. It is the individual's responsibility to inform their line manager of any secondary employment hours worked. It is vital that individuals are not made to feel pressured into opting out.
- 3.1.2 Individuals who wish to Opt Out may do so indefinitely or for a specific period of time - in either case, four weeks' notice is required to end the agreement. The agreement will be retained by the HR department on the individual's personnel file and one copy will be retained by the individual. Opt Out forms should be sent to [yas.hrservices1 @nhs.net](mailto:yas.hrservices1@nhs.net). Individuals cannot opt out of daily or weekly rest periods.
- 3.1.3. There may be circumstances in which the Trust considers the existence and application of the Opt Out Agreement is detrimental to the Health and Safety of the individual. In the first instance, Line Managers should discuss this with the individual, reminding them that there is no expectation that the individual continues to work more than their contractual requirement. In exceptional cases and in conjunction with seeking advice from HR and Occupational Health 7 days' notice will be given by the Trust to terminate the Opt Out agreement. In such circumstances, the individual will have access to the Issue Resolution (Grievance) Policy if they consider that the agreement had been unreasonably withdrawn.
- 3.1.4 In order to provide maximum flexibility, in line with Section 27.9 of Agenda for Change, it is agreed that the reference period shall be a rolling 17 weeks.

3.2 Rest Breaks

- 3.2.1 Under the Working Time Regulations workers are entitled to a minimum rest period of 20 minutes if working time exceeds 6 hours. Young workers are entitled to a 30-minute break after 4.5 hours. Employers are not obliged to pay employees for their rest periods but may decide to offer payment at their discretion. The payment of breaks within the Trust is specified in the employees' contract of employment. Breaks for operational staff will be allocated in accordance with the Trust's Rest Breaks Agreement however should not be at the start or end of the shift. Where the break is interrupted or does not take place, compensatory rest must be granted.
- 3.2.2 Employees who do not get their meal break should get the equivalent compensatory rest the following day. Compensatory rest for any period must be granted as soon as practically possible to protect the worker's health and safety and rest periods should be taken away from the worker's workstation wherever possible.

3.3 Minimum Daily Rest Period

- 3.3.1 Except for young workers as in 3.16 and 3.17, individuals under the Working time Regulations Act 1998, Working Time (Amendment) regulations 2002, 2004, 2007 & 2009 are entitled to a rest period of not less than 11 consecutive hours in each 24-hour period. In circumstances where 11 consecutive hours is not practical because of contingencies of the service, which may include end of shift overtime, daily rest may be less than 11 hours.

3.3.2 Where the individual has not been able to benefit from 11 consecutive hours' rest in a 24-hour period, compensatory rest should be provided at the earliest possible opportunity. The regulations stipulate that compensatory rest should be taken within a reasonable time from when the break was missed but not necessarily before the next shift commences. However, wherever practicably possible, the Trust will endeavour to ensure that staff are able to have an 11-hour break between shifts. The 11-hour break is inclusive of any time spent travelling to and from work.

3.3.3 In accordance with the regulations, there may be exceptional circumstances (e.g., Major Accidents) whereby individuals undertaking duties in Accident and Emergency may not benefit from this. In these circumstances the individual should discuss with their line manager to agree how and when they will take their compensatory rest period. Where possible this will be before the start of their next shift.

3.4 Weekly Rest Period

3.4.1 Under the Working time Regulations Act 1998, Working Time (Amendment) regulations 2002, 2004, 2007 & 2009 a member of staff shall be entitled to an uninterrupted rest period of at least 24 hours in each 7-day period or 48 hours in each 14-day period in addition to each daily rest period. This means one period of 35 hours of consecutive rest per 7 days or one period of 70 hours consecutive rest per 14 days. This is also in line with Agenda for Change NHS Terms and Conditions section 27 paragraph 27.19. The reference period is a rolling 14 days (336 hours).

3.4.2 Where a worker has been required by the Trust to undertake any work during rest periods for example incidental end of shift overtime then an equivalent number of hours should be provided within a reasonable timeframe.

3.5 Night Workers

3.5.1 Night workers should not exceed an average of 8 hours per shift over a 17-week period. However, the limits on night working hours do not usually apply in the Emergency Services or round the clock services are needed. The Trust will, as far as is practicable, work with Managers and Trade Union representatives to ensure that Front-line and Out of Hours services can comply with the law in relation to this specific element of the regulations and that, as far as possible, the "normal" hours of night work do not exceed this guidance.

3.5.2 Night workers are entitled to a free confidential health assessment on a regular basis and/or additionally when a work-related problem is identified. The health assessment will determine whether a worker is fit to carry out night work. Where the assessment indicated that the worker is suffering from health problems connected with their night work, advice will be sought from Occupational Health on the worker's suitability for alternative work (e.g. transfer to day shifts). The process will be managed through the Trust's Supporting Attendance Policy.

3.6 Young Workers

3.6.1 Special provisions exist in the legislation for young workers. Young workers are those who are over school leaving age but aged under age of 18 years of age. Any young adult must stay in full time education up to the age of 18. This may for example be at college, as part of an apprenticeship or traineeship or by spending up to 20 hours or more a week working or volunteering, whilst in part time education or training. They must not work more than 8 hours per day or 40 hours per week. They will be entitled to a minimum daily rest period of 12 consecutive hours per 24-hour period and will be entitled to an

uninterrupted unpaid break of 30 minutes when working more than 4.5 consecutive hours which must not be taken at the start or end of the working day.

- 3.6.2 Young workers are entitled to an uninterrupted rest period of not less than 48 hours in each 7-day period or if this is not possible for business reasons at least 36 hours rest with the remaining 12 hours taken as soon as possible afterwards. 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 the Trusts Occupational Health provider. Advice should be sought from the Trusts Occupational Health in relation to an assessment being completed.

4.0 Implementation Plan

- 4.1 The latest approved version of this Policy will be posted on the Trust Intranet site for all members of staff to view. New members of staff will be signposted to how to find and access this policy during Trust Induction

5.0 Monitoring compliance with this Policy

- 5.1 Managers, the Scheduling teams and the People and Organisational development team will where possible refer to scheduling tools to monitor compliance with the Working Time Regulations.
- 5.2 The Scheduling will notify a worker's manager where there is a breach of the regulations and will take action to rectify that breach if possible.

6.0 References

- 6.1 NHS Terms and Conditions of Service Handbook Amendment number 50, Pay Advisory 01/2023). Available at: <https://www.nhsemployers.org/publications/tchandbook>
- 6.2 The Working Time Regulations 1998 (Amended 2003). Available at: <https://www.legislation.gov.uk/ukxi/1998/1833/contents/made>

7.0 Appendices

- 7.1 This document includes the following appendices

Appendix A – Definitions

Appendix B – Roles and Responsibilities

Appendix C – 48 Hours Average Weekly Working Time Opt Out Agreement

Appendix A – Definitions

Working Time: The Working Time Regulations 1998, Working Time (Amendment) Regulations 2002, 2004, 2007 & 2009 define working time as when someone is “working, at the employer’s disposal and carrying out their duties”.

What counts as work:

- Job related training
- Where a worker has to travel as part of their work
- Working lunches, such as business lunches
- Overtime
- Paid travel time in own vehicle or Service vehicle as per terms and conditions of employment (for example employees who are called into work during a period of on-call)
- Working time in other employment (as advised by the worker)
- Trade Union activities
- Actual work arising from periods of on-call

What does not count as work:

- Routine travel between work and home
- Unpaid 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
- On-call periods when no actual work is done
- Leave due to sickness, annual leave, maternity leave, accrued leave

Rest Period: A rest period is defined as any period that is not working time as defined above.

Night time: A period of at least seven hours which includes the period from midnight to six AM.

Night Worker: An employee is classed as a night worker when they work for at least three hours during nighttime hours as a “normal course”. A person works a “normal course” if they work such hours on the majority of days on which they work.

Young Worker: A Young worker is someone who is over school age but are under eighteen years of age. Any young adult must stay in full time education up to the age of 18. This may for example be at college, as part of an apprenticeship or traineeship or by spending up to 20 hours or more a week working or volunteering, whilst in part time education or training.

Active on call time: This counts as working time from when the worker is called upon to undertake any work-related activity up until the time they return home or the provision of advice is completed over the telephone. Where individuals are on call but otherwise free to pursue time as their own this will not count towards working time. The method of calculating working time will not effect on call payments.

Appendix B – Roles and Responsibilities

Managers are responsible for ensuring that staff are supported and are not under pressure to work excessive hours, e.g. more than 48 hours per week. Where a worker wishes to work over this limit, managers will sign post them to the Proforma Opt Out form.

Irrespective of an individual opting out, managers will be responsible for monitoring the wellbeing of staff to ensure their working hours do not have a detrimental impact on staff wellbeing. If managers have any concerns following speaking with the member of staff they can seek advice from Occupational Health, Trade union representative and/ or their local HR representative.

Employees, workers and volunteers are responsible for signing an opt out form if they wish to work more than 48 hours in a 17-week rolling period. They are also responsible for informing the Trust if they take up secondary or other employment and informing the Trust of the hours worked in that role. Please see the form Appendix 3 in the YAS Secondary Employment Policy and Guidance on PULSE.

Trade Union representatives will provide support, advice and guidance to their members on the application of this policy and will raise any concerns appropriately.



**48 HOUR AVERAGE WEEKLY WORKING TIME
OPT OUT AGREEMENT**

I hereby agree that the 48-hour limit on average weekly working time, as specified in the Working Time Regulations 1998 amendment 2002, 2004, 2007 & 2009 shall not apply to me.

I understand that I have a responsibility not to work hours in this or other employment which are so long that they may impair my efficiency or expose myself, colleagues, the public or property to risk. I therefore agree that my average weekly working time can exceed 48 hours should average over a rolling 17-week reference period.

I understand that this agreement: * - delete as applicable

* is for an indefinite period:

* will end on: (date)

but can be terminated by either myself or my employer by giving four week's written notice of the intention to do so. I understand my employer has the right to terminate the agreement with 7 days' notice if the existence of the agreement is deemed detrimental to health and safety.

Signature.....

Name (CAPITALS).....

Payroll number.....Date.....

Original form to be submitted to the HR department and a copy retained by the employee.

Notice to Terminate the Opt-Out Agreement

Notice is hereby given on to terminate the above opt-out agreement.

The Agreement will therefore terminate on

Notice given by.....(signature)

Name..... Date.....

Notice to be sent to the employee or HR department as appropriate.