

Working Time Regulations

This Management Process Description replaces
MPD485/1

Copy Number

Effective

09/02/15

Summary of Significant Changes

Head of H&S and HR need updating

Policy

It is the policy of NHSBT to comply with the Working Time Regulations

Purpose

The purpose of this procedure is to ensure that the organisation complies with Health and Safety (H&S) implications of the Working Time Regulations.

Responsibilities

Managers

Managers are responsible for ensuring that they comply with the regulations.
Managers of night workers are responsible for ensuring that they offer them the night workers questionnaires and leaflets. When the staff first start to work nights and then annually.

Workforce

Workforce (Human Resources) is responsible for providing HR advice on the application of the Regulations.

Assistant Director- Health and Safety

Assistant Director - Health & Safety is responsible for:

- ensuring that Occupational Health provides a system for evaluating night worker assessments;
- Providing H&S advice on the application of the Regulations.

Occupational Health provider

The occupational health provider is responsible for assessing the night workers questionnaires and for informing managers where the staff are fit to work nights. They should follow up any member of staff who they are not happy about with telephone conversations and if necessary arrange for them to be seen by the occupational health advisor to help make a decision. Where in their opinion information needs to go back to the manager they must obtain consent from the individual before disclosing information.

Employee Services

Employee Services are responsible for providing payroll advice on the application of the Regulations.

Employees

Employees are responsible for working safety, not injuring others, co-operating with the employer on H&S and reporting safety incidents.

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Definitions

Must – This is the minimum criteria that is to be met. Any standard below this is not acceptable.

Night time and Night Worker – This is the period between 11pm and 6am, and a night worker is someone who normally works at least three hours a night on a regular basis. Occasional work at night does not constitute a night worker.

Should – Where reasonably practicable this criterion is to be met.

Young Person

This is any one under the age of 18.

Shift Work - this takes place when a contingent of staff starts their work by taking over from a contingent of staff at the end of their working day, at the same workstations, at predetermined times. This can include a rotating pattern, and may or may not cover a 24 hour period. It entails the need for workers to work at different times over a given period of days or week.

Applicable Documents

The Working Time Regulations 1998 as amended

[FRM870](#) – Night Worker Assessment Questionnaire

[INF213](#) – Information for Night Workers

[DAT659](#) – Manager's Code of Practice (CoP) for Long Working Hours and Stress Reduction

Process Description

This Management Process Description (MPD) applies Working Time legislation to H&S aspects of the organisation only. For Payroll advice or Human Resources advice Employee Services and HR Department should be contacted.

Workforce

Workforce (Human Resources) is responsible for providing advice to Managers on the application of the Regulations.

Assistant Director - Health & Safety

Assistant Director - Health & Safety is responsible for ensuring that Occupational Health provides a system for evaluating night worker assessments.

Working Time

Workers working time, including overtime, in any reference period shall not exceed an average of 48 hours for each 7 days. All Managers should take all reasonable steps to ensure that this is complied with.

The reference period is any period of 17 weeks. The Regulations provide a formula for working out a worker's average hours; advice should be sought from HR when this formula is required.

Where staff have worked for less than 17 weeks, the reference period is the period that has elapsed since they started work.

Length of night work

A night workers normal hours of work in any reference period shall not exceed an average of 8 hours for each 24 hours.

All managers should take all reasonable steps to ensure that this is complied with. The reference period is any period of 17 weeks.

Where staff have worked for less than 17 weeks, in their current position, the reference period is the period that has elapsed since they started this work.

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Health Assessments

To be classed a night worker you have to work more than 3 hours between 11pm and 6am as a regular part of your job. The night worker is entitled to the opportunity of a free health assessment at annually.

Managers are responsible for ensuring that any staff who want to work nights are offered a free health assessment before starting working nights. Managers are also responsible for ensuring that all night workers are offered a free health assessment at regular intervals.

Young persons should not be employed to work nights, between 10pm and 6am, unless:

- The Manager ensures that they are offered a free health assessment before taking up the post.
- A free health assessment done previously is still valid.

This does not apply where a young worker is assigned to work nights of an exceptional nature e.g. as part of training on a one off basis, and does not include an internally declared emergency.

Managers must offer Information for night workers - leaflet ([INF213](#)) and Night worker assessment questionnaire – health assessment ([FRM870](#)) to all of their night workers and ask them to return to the Occupational Health provider in a pre paid envelope.

The Occupational Health provider then assesses the questionnaires and will only disclose that an employee is fit for work, unless they have their consent in writing to further disclosure.

For all staff assessed as fit for night work Occupational Health must inform the managers.

The occupational health provider must speak to any workers who assessments they are not happy with or make an appointment to see them.

Where Occupational Health or a registered medical practitioner feels that the worker should not work nights because they are suffering from health problems related to working nights then the manager should transfer the worker taking into consideration:

- Work that the worker is suited to and
- Work which is to be undertaken during periods such that the worker will cease to be a night worker.

Records

For **Night** work managers **must** keep records which are adequate to show whether the limits specified above are being complied with in the case of each worker and keep the records for 2 years from the date on which they were made.

For workers up to and including AFC Band 7 (who work office hours) then adequate records will be taken as details of any days off in lieu agreed with their Manager and overtime payments recorded by Employee Services.

Workers in AFC Band 8 and above do not need to record working hours. The working time limits and rest entitlements, apart from those applicable to young workers, do not apply if a worker can generally decide how long he or she works because of the particular nature of their job. A test, set out in the regulations, states that a worker falls into this category if “on account of the specific characteristics of the activity in which s/he is engaged, the duration of her/his working time is not measured or predetermined, or can be determined by the worker her/himself.” The Manager’s Code of Practice for Long Working Hours ([DAT659](#)) sets out suitable guidance for managers to follow to avoid long working hours.

Daily rest

Workers are entitled to a rest period of not less than 11 consecutive hours in each 24 hour period during which they work.

A young worker is entitled to a rest period of not less than 12 consecutive hours in each 24 hour period during which they work.

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The minimum rest period may be interrupted in the case of activities involving periods of work that are split over the day or of short duration.

Weekly rest period

Workers are entitled to uninterrupted rest period of not less than 24 hours in each 7 day period during which they work.

If the manager determines a worker shall be entitled to either:

- 2 uninterrupted rest periods each of not less than 24 hours in each 14 day period or
- 1 uninterrupted rest period of not less than 48 hours in each such 14 day period.

A young worker is entitled to a rest period of not less than 48 hours in each 7 day period during which time they work.

Compensatory Rest

Compensatory rest is a period of rest the same length as the period of rest, or part of a period of rest, that a worker has missed.

The need for compensatory rest must be avoided e.g. by planning Collection sessions and other activities to avoid any possible requirement.

Compensatory rest may need to be applied for emergency planning situations, and to provide Patient / Organ donation and transplant Services where these requirements can not be anticipated and planned e.g. Donor Transplant Co-ordinators responding to donor availability.
Compensatory rest should be taken as soon as possible.

Rest breaks

Where a workers daily working time is more than 6 hours they are entitled to a rest break. This should be within the six hours and not be at the end or beginning of the period.

This rest break is an uninterrupted period of not less than 20 minutes, which they are entitled to take away from their work area.

Where a young persons working time is more than 4 and a half hours they are entitled to a rest break of at least 30 minutes away from their work area.

No-one can be made to work more than an average of 48 hours in a week against their wishes.

Exclusions

Agreement that:

- the night work limits,
- rights to rest periods and
- rest breaks

may be varied (with the workers receiving compensatory rest). The agreement can be made by collective agreement (between NHSBT and a trade union). They may also agree to extend the reference period for the working time limits up to 52 weeks.