



Aneurin Bevan University Health Board

WORKING TIME POLICY

**(including Medical & Dental staff
not in Training posts)**

N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. The Intranet should be referred to for the current version of the document.

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1. Introduction

The Working Time Regulations 1998 introduced minimum conditions relating to weekly working time, rest entitlements, annual leave, and also made special provisions for working hours and health assessments in relation to night workers.

As a Health & Safety measure the regulations imposed responsibilities on both managers and staff to ensure that working time conditions, and arrangements are observed.

The Regulations also implemented provisions of the Young Workers Directive which relates to the working time of staff aged under 18 years of age but over compulsory school age.

2. Policy Statement

The Health Board acknowledges the importance of allowing staff to take reasonable breaks from their work to ensure their health and safety, and the well being of others, including patients and colleagues.

There will be no discrimination in the application of this policy in respect of age, disability, gender, gender identity or reassignment, marriage or civil partnership, pregnancy and maternity, race, nationality, ethnic or national origin, religion or belief, sex, sexual orientation, trade union membership.

3. Scope

The regulations and provisions of this policy apply to all staff (including bank workers), and Career Grade Medical & Dental staff but with the exception of Medical and Dental staff employed within the training grades, for whom national arrangements apply.

Annex 1 provides details of the Medical & Dental Grade included and excluded by way of National arrangements.

There is provision to flex certain regulations recognising the nature and need for continuity of health services. In such circumstances, for example shift working, variations must be consulted upon and documented appropriately, ensuring that the staff involved receive adequate compensatory rest.

4. Roles & Responsibilities

4.1 Managers and Supervisors

- Protect as far as is practicable the health & safety of all employees, and also the health & safety of patients and others receiving health care, and the general public.

- Ensure that staff undertake their work within acceptable shift patterns and meal break arrangements.
- Maintain adequate records to monitor compliance, and any variations to the regulations, including 'opt out' agreements, locally agreed variations and subsequent compensatory rest periods.
- Monitor hours and patterns of work

4.2 **Staff**

- Protect as far as is practicable their own health & safety and the health and safety of colleagues, patients and others receiving health care, and also the general public.
- Monitor their hours and patterns of work.
- Notify the manager if they undertake secondary employment.
- Where staff wish to "Opt Out" of the average 48 hour working week they **must** complete Appendix 1

5. Working Time Regulations

The Regulations currently provide the following basic rights and protections:

- Maximum weekly working time - average of 48 hours a week, averaged over 17 weeks (agreed locally)
- A limit of average 8 hours night work in 24 hours averaged over 17 weeks, which night workers can be required to work. See definition in Section 6.
- Entitlement for night workers to receive free health assessments.
- Daily Rest – 11 hours consecutive rest in every 24 hour period
- Weekly Rest – 24 consecutive hours every 7 days, or 48 consecutive hours every fortnight.
- An in-work rest break of at least 20 minutes if working more than 6 hours.
- Minimum 5.6 weeks (28 days/210 hours pro-rata) paid leave per year, inclusive of bank holidays. (correct as at 2015)
- Entitlement to Annual Leave payments that are based on average rather than basic salary.

- Young workers – i.e. someone between 16 and 18 years of age - may not ordinarily work more than 8 hours a day or 40 hours a week. (Refer to WTR (2008) and amendments)

6 Definitions

6.1 Working Time

Working time is any period when a worker is 'working at the Organisations disposal' and carrying out activities or duties for the Organisation.

Time used for the purpose of study leave, in-house training, health and safety and Trade Union duties (as opposed to activities) and time off for civic/public duties is considered to be working time.

Time spent undertaking activities associated with the Territorial Army are not considered to be working time.

6.2 On-Call

Workers who are on-call (i.e. from home or outside work premises) will be regarded as working from the time that they are actually called upon to undertake work, including: -

- The giving of advice by telephone.
- The point at which they are initially contacted, until they actually return home.

6.3 Sleep-ins (Resident On-Call)

Workers who are required to be at their place of work and to sleep-in for a specified period (thus not free to pursue their own time) will be considered to be working.

Where compensatory rest is to be awarded as a consequence of a worker being resident on-call, the rest awarded will take into account the actual intensity of work undertaken. In cases where workers benefit from relatively long periods of sleep, there will not be a need to award compensatory rest.

6.4 Night Worker

A night worker is an individual who, as part of their regular work commitment, works a minimum of 3 hours between an agreed 7 hour period encompassing 11pm to 6am or participates in an on-call system with the requirement to be available through the night.

Organisations are able to jointly agree the exact 7-hour period, to define the period that is considered to be 'night duty' for the purpose of the regulations.

A night worker must work nights on a regular basis as opposed to any ad-hoc arrangement.

Hours worked as overtime do not count for the purpose of averaging night hours worked.

A night worker's average normal working hours are calculated by dividing the normal working hours during the reference period by the number of days in that period, excluding weekly rest periods (24 hours). Note that all days during the reference period (with the exception of weekly rest periods) are to be taken into account.

Organisations can jointly agree any specific areas that are deemed to be hazardous or particularly physically/mentally demanding or if recognised in a risk assessment by the employer under the Management of Health and Safety at Work Regulations 1999.

6.5 Day

'Day' means a period of 24 hours beginning at midnight.

6.6 Rest Period

A rest period is a period which is not working time, other than a rest break or leave to which the employee is entitled.

6.7 Rest Break

An uninterrupted break that is taken during the working day/shift

6.8 Derogation & Compensatory Rest

Derogations are variations to the regulations, which may be applied, recognising the nature and continuity requirements of the service. For example, for shift workers, where the daily and weekly rest stipulations may be varied, provided a local agreement has been reached, staff are afforded equivalent compensatory rest, and records are kept.

Compensatory rest is an equivalent period of rest which is as long as that to which the worker was entitled, and unable to take.

7. Variations

7.1 48 Hour Opt Out

Staff have the right not to work more than 48 hours per week, averaged over a reference period of 17 weeks.

Individuals can however consent to work more than 48 hours, averaged over the reference period. In order to do so, they must:

- i) Complete a Personal Employment Statement (appendix 1 Part A) so that the manager can take account of all hours worked within all types of employment.
- ii) Complete an opt-out agreement (Part B)

Managers/supervisors must:

- i. Ensure all necessary documentation is recorded and logged in the individuals personal file and relevant electronic systems of work

The opt-out agreement can be for a set period of time, or an indefinite period, and each worker will be expected to give one month's notice of any change.

The maximum average hours to be worked over the 17 week reference period should not exceed 60. The reference period can be modified by agreement between the Health Board and Trade Union partners.

Example one

You have a standard working week of 37.50 hours. You also do 15 hours additional a week for the first 10 weeks of your 17-week reference period.

- step one: $(17 \times 37.5) + (10 \times 15) = 787.50$
- step two: $787.50 \div 17 = 46.32$ weekly average

Example two

You have a standard working week of 30 hours. You also do an additional 20 hours a week for the first 12 weeks of your 17-week reference period. You also take four days annual leave and work one normal day (eight hours) that week. When you return to work, you only do your normal hours with no overtime for one week.

- step one: add together the 16 weeks of normal hours, plus one day normal hours, plus the 12 weeks of overtime $(16 \times 30) + (1 \times 8) + (12 \times 20) = 728$
- step two: include the time worked on the four days directly after the 17-week period $4 \times 8 = 32 + 728 = 760$
- step three: $776 \div 17 = 44.71$ weekly average

7.2 Shift Working

7.2.1 Daily Rest

Each worker will normally have a minimum rest period of 11 hours between each day of work, however shift patterns and/or 'on call' may make it impracticable to take the full 11 hour rest requirement between shifts.

Where the daily rest period is reduced, for example, with double back shifts (e.g. late to early), this must be with full agreement of rota staff, and compensatory rest must be identified within the rota.

7.2.2 Weekly Rest

Each worker should receive an uninterrupted weekly rest period and will normally have a minimum rest period of 35 hours (including the 11 hours daily rest) in each 7-day period. Where this is not possible they should receive equivalent rest over a 14 day period either as one 70 hour period or two 35 hour periods

7.3 In Work Break

All working time of more than 6 hours must include a minimum 20 minute uninterrupted unpaid break.

Breaks will be agreed with the Manager at the commencement of the shift/day working pattern, recognising both the needs of the service and the entitlement of staff to be unavailable for work during this period.

In exceptional circumstances where a break is disturbed, and cannot be re-allocated at a reasonable time before the end of the shift, the break should be paid.

In situations where individuals cannot leave their area of work, such time is counted as working time and must be paid.

N.B. Any discretionary breaks are not an entitlement and can only be authorised by the manager in charge ensuring service needs are not compromised. Discretionary breaks must not exceed 10 minutes and must be taken within the work area.

8. Special Rules for Young Workers

8.1 Daily Rest

A young worker is entitled to 12 hours uninterrupted rest in each 24 hour period that they work.

8.2 Weekly Rest

A young worker is entitled to two days off in each 7 day working period. This cannot be averaged over a 14 day period.

8.3 Rest Breaks at Work

If a young worker is required to work for more than 4½ hours in any one period he/she is entitled to a rest break of 30 minutes.

9. Health Assessments (Night Workers)

Workers who work night shifts as a part of a regular commitment are entitled to be offered a health assessment. This will initially be in the form of a questionnaire (appendix 2), but if necessary may also involve a free and confidential detailed assessment by the Occupational Health Department.

10. Paid Annual leave

Staff will receive the entitlement to annual leave and general public holidays as set out in the NHS Terms & Conditions of Service.

Annual leave accrues from their first day of work.

11. Agency Staff

Agency staff are covered under the scope of the regulations. However the responsibility to ensure that Health and Safety entitlements are provided will be the responsibility of the Agency. The Health Board, however, will wish to satisfy itself that such provisions are adequately provided for in any contract to supply Agency staff.

12 Reference to Other Documents

- NHS Terms & Conditions of Service
- Roster Policy
- Annual Leave & Statutory Holiday Policy
- Sickness Absence Policy
- Working Time Regulation (2008) and amendments
- Trade Union Recognition Agreement

APPENDIX 1 – Individuals Working Hours Statement

Please complete this form and return it to your Manager as soon as possible.

Name in Full: **Staff No.:**

The European Working Time Regulations require each employee to inform their employer(s) of any additional work they undertake, either within the Organisation or outside it. This information is to determine your current TOTAL working hours per week.

PART A

Please complete the following table for ALL work you undertake, paid or unpaid. (This includes ABUHB employment):

My current employment commitments are as follows: -

Employer(s)	Department	Job Title	Average Hours per week
		Total Average Hours:	

Signed:..... **Date:**

If the employee also works on the Staff Bank please ensure that an 'opt-out' form is held in both departments.

PART B – OPT OUT Request form

Only sign here if you wish to be available for more than 48 hours per week (average) and confirm by signing below.

Any additional hours worked beyond your contractual commitment remains voluntary.

I agree to work or being available to work more than 48 hours (average) per week over a 17 week period.

I understand I can cancel this option, giving reasonable notice in writing

Signed:..... **Date:**.....

Department Head	Action by Manager	Action by System
Signed:	Signed:	Signed:
Date:	Date:	Date:

(You are strongly advised to read the explanatory notes overleaf before your declaration to assist your calculation).

EXPLANATORY NOTES

- When considering your average hours worked, you will need to take into account work undertaken in **all** Organisations / Employments
- If you sign PART B: This enables you to **opt out of the Working Time Directive** which limits you to working an average of 48 hours per week over a 17 week period.
(*Working Time Regulation 12*)
- You **must** inform your employer of any other hours that you work in other organisations in order that they can understand your total working commitments.
- If you choose not to sign Part B. The Organisation's responsibility would then be to ensure that you do not normally work more than the 48 hours per week over the agreed 17 week averaging period.
- If you are unclear about any of the above points please seek advice from your Manager/Trade Union Representative/Professional Organisation.
- Average working hours must not exceed 60 per week over the 17 week reference period.

PLEASE NOTE:

If you do not return this form the Organisation will assume that your employment will be in compliance with the European Working Time Regulations.

Appendix 2 (Part 1)

Working Time Regulations require regular night workers/on-call staff to be offered an annual health assessment. In order for the Organisation to meet its obligations please complete the following questionnaire.

A night worker is any worker whose daily working time includes at least 3 hours of night-time on a regular basis or participates in an on-call system with the requirement to be available through the night.

Night time is a period of at least seven hours including the period from 2400h – 0500h e.g. 2300h – 0600h.

While workplace hazards are unlikely to change during night-time, risks may become greater where individuals are suffering from certain conditions which could possibly be aggravated by night work. There are few, if any, health issues which rule out night work completely.

If this form is **not** completed and returned - Aneurin Bevan University Health Board will assume that you do not wish to participate in the Health Assessment.

Mr/Mrs/Ms/ Miss* delete as appropriate	First Name	Surname
Male / Female* Delete as appropriate	Date of Birth	Assignment Number
Home Address:		Post Code:
Home Tel Number:		Work Tel Number:
Post (s) held:		Hours worked
Post (s) held:		Hours worked
Number of hours worked per night	Start time	End Time
Number of nights worked per week		
Name of Manager		Tel/Ext Nu:
Department where night duty is performed:		Participates in on call: Yes / No * delete as appropriate

POTENTIAL HAZARDS IN PROPOSED POST

NO YES

Work with VDU's (more than 5 hrs per week)

NO YES

ANEURIN BEVAN UNIVERSITY HEALTH BOARD HEALTH ASSESSMENT QUESTIONNAIRE FOR NIGHT WORKERS

Food preparation	<input type="checkbox"/>	<input type="checkbox"/>	Exposure to high noise levels	<input type="checkbox"/>	<input type="checkbox"/>
Regular repetitive tasks	<input type="checkbox"/>	<input type="checkbox"/>	Manual handling duties	<input type="checkbox"/>	<input type="checkbox"/>
Driving duties	<input type="checkbox"/>	<input type="checkbox"/>	Work in confined spaces	<input type="checkbox"/>	<input type="checkbox"/>
Work with isocyanates	<input type="checkbox"/>	<input type="checkbox"/>	Work at heights	<input type="checkbox"/>	<input type="checkbox"/>

Other (describe) _____

DECLARATION

I understand the above information and declare that the information given within this document is true and complete to the best of my knowledge.

Employees Signature _____ Date _____

Managers Signature _____ Date _____

Manager's Note:

If any of the above potential hazards in post have been ticked as 'YES' this area needs to be risk assessed.

Appendix 2 (Part 2)

This page to be completed by the Employee only then forwarded to The Occupational Health Department.

The information on this questionnaire will remain strictly PRIVATE & CONFIDENTIAL to the Occupational Health Department.

(Please answer the following questions - place x in relevant box.)

- | | | No | Yes |
|----|--|--------------------------|--------------------------|
| 1. | Do you suffer from Diabetes? | <input type="checkbox"/> | <input type="checkbox"/> |
| | Is your condition controlled by insulin <input type="checkbox"/> tablets <input type="checkbox"/> diet <input type="checkbox"/> | | |

If YES does it cause you problems at night ☐ ☐

Please give details _____

- | | | | |
|----|--|--------------------------|--------------------------|
| 2. | Have you suffered from a heart or circulation problem such as angina or high blood pressure? | <input type="checkbox"/> | <input type="checkbox"/> |
|----|--|--------------------------|--------------------------|

If yes, please give details including medication _____

Does it cause you problems at night? ☐ ☐

- | | | | |
|----|---|--------------------------|--------------------------|
| 3. | Do you suffer from any digestive disorder e.g. ulcer? | <input type="checkbox"/> | <input type="checkbox"/> |
|----|---|--------------------------|--------------------------|

If yes, please give details _____

Does it cause you problems at night? ☐ ☐

- | | | | |
|----|--|--------------------------|--------------------------|
| 4. | Do you suffer from any condition which causes difficulty sleeping? | <input type="checkbox"/> | <input type="checkbox"/> |
|----|--|--------------------------|--------------------------|

If yes, please give details _____

- | | | | |
|----|--|--------------------------|--------------------------|
| 5. | Do you suffer from any medical condition requiring medication on a strict timetable? | <input type="checkbox"/> | <input type="checkbox"/> |
|----|--|--------------------------|--------------------------|

If yes, please give details _____

Does it cause you problems at night? ☐ ☐

- | | | | |
|----|---|--------------------------|--------------------------|
| 6. | Do you suffer from any chest disorder where night-time symptoms are particularly troublesome? | <input type="checkbox"/> | <input type="checkbox"/> |
|----|---|--------------------------|--------------------------|

If yes, please give details _____

- | | | | |
|----|--|--------------------------|--------------------------|
| 7. | Do you have any other health concerns arising from night work? | <input type="checkbox"/> | <input type="checkbox"/> |
|----|--|--------------------------|--------------------------|

If yes, please give details _____

Signature: _____ Date: _____

FOR OCCUPATIONAL HEALTH DEPARTMENT USE ONLY

Questionnaire clearance only ☐ Nurse Screening ☐ Medical ☐

Signature: _____ Date: _____

Outcome: _____

Annex 1

Medical & Dental Grades of Staff

GRADE
Consultant
Associate Specialist
Staff Grade
SCMO
CMO
Hospital Practitioner
Salaried General Practitioner.
Salaried General Dental Practitioner.
Specialist Registrar
Dental Core Training
Foundation House Officer 2
Foundation House Officer 1
Foundation House Officer 2 (Pre Jan 2015)
Foundation House Officer 1 (Pre Jan 2015)
House Officer

Policy applies to these GRADES OF Medical and Dental Staff

These are Training Grades covered by Paragraphs 18.a to 21 of:
**NATIONAL HEALTH SERVICE MEDICAL AND DENTAL STAFF
(WALES) HANDBOOK 1 DECEMBER 2003.**