

## Implementation of the Working Time Regulations to Senior Medical Staff and NHS Locums

Issue Date	Review Date	Version
May 2015	Extended to January 2022	4.5

### Purpose

This guide sets out the local implementation of the Working Time Directive to Senior Hospital Medical Staff.

### Who should read this document?

All Medical and Dental Consultants on the 2003 contract  
All SAS doctors

### Key Messages

### Core accountabilities

<b>Owner</b>	Medical HR Manager
<b>Review</b>	Medical Staff Panel
<b>Ratification</b>	Director of Human Resources & Organisational Development
<b>Dissemination (Raising Awareness)</b>	Medical Workforce Office
<b>Compliance</b>	Medical Director

### Links to other policies and procedures

### Version History

<b>2.1</b>	October 2008	Medical Staff Panel
<b>3.1</b>	March 2011	Trust Commitment to Valuing People amended in line with the Equality Act 2010
<b>3.2</b>	June 2011	Review date extended
<b>3.3</b>	June 2012	Review date extended
<b>4</b>	May 2015	Reviewed and updated
<b>4.1</b>	November 2018	Extended to April 2019 by HR SMT
<b>4.2</b>	August 2019	Extended to April 2020 by Louise Tate
<b>4.3</b>	August 2020	Extended to April 2021 by Medical Staff Panel
<b>4.4</b>	June 2021	Extended to September 2021
<b>4.5</b>	September 2021	Extended to January 2022

*The Trust is committed to creating a fully inclusive and accessible service. Making equality and diversity an integral part of the business will enable us to enhance the services we deliver and better meet the needs of patients and staff. We will treat people with dignity and respect, promote equality and diversity and eliminate all forms of discrimination, regardless of (but not limited to) age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage/civil partnership and pregnancy/maternity.*

**An electronic version of this document is available on Trust Documents. Larger text, Braille and Audio versions can be made available upon request.**

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## **1 Introduction**

- 1.1 This paper sets out the arrangements agreed within the Medical Staff Panel for the local implementation of the Working Time Directive to Senior Hospital Medical and Dental Staff. This policy should be read in conjunction with the Working Time Regulation Policy for all staff.

## **2 Key Elements**

- 2.1 This agreement extends the provisions of AL(MD)6/98 to all Senior doctors who undertake work for the Trust.

### **3. Derogations**

- 3.1 It is confirmed that the derogations set out in Regulation 21 of the Working Time Regulations 1998 shall apply to all Senior doctors (excluding clinical academics).

### **4. Reference Periods.**

- 4.1 It is agreed that doctors with concerns should keep diaries of their hours worked over a minimum period of four weeks or over the rota cycle (or multiples of the rota cycle, whichever is preferable). The average figure for the agreed monitoring period will apply over the 26 week reference period.
- 4.2 Where variations between doctors' working time is insignificant, it is agreed that the hours worked on-call will be calculated on a Specialty basis. This figure will then be used to calculate the average number of hours worked by doctors on the same on-call rota in the same Service Line/Specialty. A decision on whether to implement this averaging will be taken by the doctors concerned at Service Line/Specialty level.

### **5 Protection**

- 5.1 It is confirmed that doctors will not suffer any detriment as a consequence of having exercised any of their entitlements under the Regulations.
- 5.2 For general information on EWTD calculations please refer to EWTD policy for all hospital staff.

### **6 Duties Included in the Definition of Work**

- 6.1 In assessing weekly working hours, a doctor's normal contractual commitment as outlined in his/her job plan, any additional duties performed as a result of the needs of the service (e.g. management and other non-clinical duties), work undertaken while on-call and work undertaken where the doctor is not on-call, but has been contacted by the hospital will be taken into account. Private Practice is excluded from the calculation of hours worked.

### **7. On Call**

- 7.1 Working time will be assessed on the basis that work begins when the doctor is called and commences work related activities (e.g. giving advice over the telephone or leaving home to visit a patient). Work during on-call will be measured in 30 minute blocks, minimum 30 minutes, however long the activity takes to complete.

- 7.2 For the purpose of calculating time worked on-call, travelling time is included in working time.
- 7.3 The calculation of working time ends when the task is complete (e.g. when a doctor arrives back at home).
- 7.4 Where doctors are compulsory resident on-call the whole of the time spent in residence is classed as work for the purpose of this agreement. However, where a doctor is a compulsory resident on-call because they have chosen to reside outside of the area prescribed by the Trust, working time will only be assessed from the time when the doctor is called and commences work.
- 7.5 When, in the interests of patient care, a doctor needs to be resident on-call the whole of the time spent in residence is classed as work for the purposes of this agreement.
- 7.6 If the doctor concerned and the person responsible for job plans cannot agree whether residence in hospital is clinically necessary, the matter shall be referred to the Medical Director.
- 7.7 Where a doctor has been contacted by the hospital and is not formally on-call, working time will be assessed as set out in 7.1 and 7.2 and 7.3 above.

## **8. Compensatory Rest**

- 8.1 Compensatory rest is due when paid work encroaches on the prescribed unpaid rest periods set out in EWTD. In addition to the daily rest period of 11 consecutive hours, and any paid annual leave, clinicians are also entitled to an uninterrupted rest period of not less than 24 hours in each 7 day period. Daily rest and weekly rest are separate entitlements which should normally be taken consecutively (i.e. there should be 1 period per week, or 2 per fortnight, of 11+24=35 hours continuous rest).
- 8.2 Compensatory rest is unpaid, and the same length of time as the part of the unpaid rest break that has not been achieved. It is agreed that compensatory rest should normally be built into the rota commitment. Compensatory rest will be taken within 2 weeks of the entitlement occurring and the rest period must be uninterrupted
- 8.3 Doctors on part-time contracts are entitled to the same compensatory rest as doctors on whole time contracts.
- 8.4 The achievement of rest entitlements should be reviewed in each Service Line every 26 weeks.
- 8.5 To ensure staff get adequate rest, doctors should monitor the total hours worked (including hours worked on-call) over a rota cycle or a minimum of four weeks using the diary in Appendix 1.
- 8.6 Copies of the completed diaries and other monitoring information shall be sent to the Service Line Director to action appropriately with the doctor(s)

concerned and the Chairman of the LNC. Individual doctors should also retain a copy of the diary applicable to them.

- 8.7 Service Lines should ensure that their rotas take into account the possibility that following a busy on-call period the Senior doctor may not be available for work on the following day. If the Senior doctor has not had adequate rest due to unexpectedly onerous on call duties consideration must be given as to whether they are fit for work the following day.

## **9. Exceeding the 48 Hour Limit on Working Time**

- 9.1 As soon as it becomes apparent that a doctor will exceed the 48 hour average working week the person responsible for the job plan will commence consultation with the doctor to vary the job plan to reduce the work commitment of the doctor.
- 9.2 This variation of the job plan must be completed and the revised job plan implemented within the 26 week reference period.

## **10. NHS Locum Senior Doctors**

- 10.1 This agreement applies to NHS Locum Senior doctors employed by the Trust.
- 10.2 Where the appointment is short term, the reference period shall reflect the entire period of employment.
- 10.3 Where rest breaks are encroached upon, the contract of employment will be extended accordingly.
- 10.4 Where the doctor is employed through an agency, the agency will be responsible for enforcing the Directive.
- 10.5 Where locums are employed directly or indirectly by the NHS, it is agreed that the Trust will remain within the spirit of this agreement.

## **11. Doctors with more than one NHS Employer**

- 11.1 Where a doctor holds a contract of employment with more than one NHS employer, this agreement will apply across all NHS posts. A lead employer (responsible for monitoring the hours worked, keeping records and ensuring this agreement is correctly implemented), will be identified and the doctor will be notified accordingly.

## **12. Clinical Academics**

- 12.1 Where a doctor holds a contract of employment with an NHS employer and a university, the arrangements in this document will apply. Clinical academics are covered by the terms of the Regulations and therefore, entitled to be restricted to an average 48 hour working week and the prescribed rest breaks as set out in the Regulations. The Trust will not advertise posts where they require doctors to work more than an average 48 hour working week.
- 12.2 The Trust will liaise with the university employer and develop an agreed monitoring system to ensure that these doctors receive their entitlements under the Regulations.

### **13. Dis-applying the Provisions of the Directive and the Collective Agreement**

- 13.1 If a doctor does not wish to be bound by the terms of the agreement, s/he should give one month's written notice to their Service Line Director.
- 13.2 A decision not to be bound by the agreement will lapse after one year unless it is renewed in writing.

### **14. Unresolved Differences**

- 14.1 Any differences over the interpretation and implementation of this agreement should be referred to a panel comprising of the Medical Director, Chair of the LNC and a Service Line Director for resolution.

## **3 Consultation and Ratification**

The design and process of review and revision of this policy will comply with The Development and Management of Trust Wide Documents.

The review period for this document is set as default of five years from the date it was last ratified, or earlier if developments within or external to the Trust indicate the need for a significant revision to the procedures described.

This document will be approved by the Medical Staff Panel and ratified by the Director of HR & OD.

Non-significant amendments to this document may be made, under delegated authority from the Director of HR & OD, by the nominated author. These must be ratified by the Director of HR & OD and should be reported, retrospectively, to the Medical Staff Panel and HR & OD Committee.

Significant reviews and revisions to this document will include a consultation with named groups, or grades across the Trust. For non-significant amendments, informal consultation will be restricted to named groups, or grades that are directly affected by the proposed changes

## **4 Dissemination and Implementation**

Following approval and ratification, this policy will be published in the Trust's formal documents library and all staff will be notified through the Trust's normal notification process.

Document control arrangements will be in accordance with The Development and Management of Trust Wide Documents.

<b>Core Information</b>				
<b>Document Title</b>		Implementation of the Working Time Regulations to Senior Medical Staff and NHS Locums		
<b>Date Finalised</b>				
<b>Dissemination Lead</b>		Medical Workforce Business Partner		
<b>Previous Documents</b>				
<b>Previous document in use?</b>		Yes		
<b>Action to retrieve old copies.</b>		The document controller will ensure that old versions are archived in the archive master file. Access to archived documents will be through the document controller.		
<b>Dissemination Plan</b>				
<b>Recipient(s)</b>	<b>When</b>	<b>How</b>	<b>Responsibility</b>	<b>Progress update</b>
Senior Medical and Dental Staff (Consultant and SAS)	Ratified	Electronic	Medical Workforce Team	
Care Group Managers, Care Group Directors and Service Line Directors	Ratified	Electronic	Medical Workforce Team	



<b>Review</b>		
<b>Title</b>	Is the title clear and unambiguous?	Y
	Is it clear whether the document is a policy, procedure, protocol, framework, APN or SOP?	Y
	Does the style & format comply?	Y
<b>Rationale</b>	Are reasons for development of the document stated?	Y
<b>Development Process</b>	Is the method described in brief?	Y
	Are people involved in the development identified?	Y
	Has a reasonable attempt has been made to ensure relevant expertise has been used?	Y
	Is there evidence of consultation with stakeholders and users?	Y
<b>Content</b>	Is the objective of the document clear?	Y
	Is the target population clear and unambiguous?	Y
	Are the intended outcomes described?	Y
	Are the statements clear and unambiguous?	Y
<b>Evidence Base</b>	Is the type of evidence to support the document identified explicitly?	Y
	Are key references cited and in full?	Y
	Are supporting documents referenced?	Y
<b>Approval</b>	Does the document identify which committee/group will review it?	Y
	If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document?	Y
	Does the document identify which Executive Director will ratify it?	Y
<b>Dissemination &amp; Implementation</b>	Is there an outline/plan to identify how this will be done?	Y
	Does the plan include the necessary training/support to ensure compliance?	Y
<b>Document Control</b>	Does the document identify where it will be held?	Y
	Have archiving arrangements for superseded documents been addressed?	Y
<b>Monitoring Compliance &amp; Effectiveness</b>	Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document?	Y
	Is there a plan to review or audit compliance with the document?	Y
<b>Review Date</b>	Is the review date identified?	Y
	Is the frequency of review identified? If so is it acceptable?	Y
<b>Overall Responsibility</b>	Is it clear who will be responsible for co-ordinating the dissemination, implementation and review of the document?	Y

<b>Core Information</b>	
<b>Manager</b>	Yvonne Linley-Shaw
<b>Directorate</b>	HR & OD
<b>Date</b>	March 2014
<b>Title</b> Implementation of the Working Time Regulations to Senior Medical Staff and NHS Locums	
<b>What are the aims, objectives &amp; projected outcomes?</b>	To provide guidance for Medical and Dental Consultants and SAS doctors on the implementation of the working time directive
<b>Scope of the assessment</b>	
<b>Collecting data</b>	
<b>Race</b>	This is mitigated as the guidelines can be made available in alternative languages
<b>Religion</b>	The document has no impact in this area
<b>Disability</b>	This is mitigated as the guidelines can be made available in alternative formats
<b>Sex</b>	The document has no impact in this area
<b>Gender Identity</b>	The document has no impact in this area
<b>Sexual Orientation</b>	The document has no impact in this area
<b>Age</b>	The document has no impact in this area
<b>Socio-Economic</b>	The document has no impact in this area
<b>Human Rights</b>	The document has no impact in this area
<b>What are the overall trends/patterns in the above data?</b>	There are no trends/patterns in this data. External consideration has been given to 2011.12 NHS Litigation Authority Risk Management Standards for NHS Trusts.
<b>Specific issues and data gaps that may need to be addressed through consultation or further research</b>	Trust wide documents can be made available in a number of different formats and languages if requested. No further research is required as there are no further equality issues.
<b>Involving and consulting stakeholders</b>	
<b>Internal involvement and consultation</b>	These guidelines have been compiled by Senior medical staff representatives and has been circulated for consultation to LNC members and the Medical Staff Panel.

<b>External involvement and consultation</b>	None			
<b>Impact Assessment</b>				
<b>Overall assessment and analysis of the evidence</b>	<p>The assessment has shown that there could be an impact on race or disability groups. However, this document can be made available in other formats and languages if requested.</p> <p>The document does not have the potential to cause unlawful discrimination. The document does not have a negative impact.</p>			
<b>Action Plan</b>				
<b>Action</b>	<b>Owner</b>	<b>Risks</b>	<b>Completion Date</b>	<b>Progress update</b>
Provide documents in alternative formats and languages if requested	Medical Workforce Business Partner	Potential cost impact	Ongoing	This action will be addressed as and when the need occurs

**Plymouth Hospitals NHS Trust  
DIARY OF HOURS WORKED**

**Name:**

.....

**Specialty:**

.....

**Week Beginning:**

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	MON		TUE		WED		THUR		FRI		SAT		SUN	
Hours on-call														
	0-30	30-60	0-30	30-60	0-30	30-60	0-30	30-60	0-30	30-60	0-30	30-60	0-30	30-60
00-00														
1.00														
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18.00														
19.00														
20.00														
21.00														
22.00														
23.00														
Total														
Routine														
On-call worked														

**LEGEND**

Routine duties ■	On-call duties ▨	Annual Leave	A/L	Total Hours	
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