

Working Time Policy and Procedure

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CONSULTATION SCHEDULE

Name and Title of Individual	Groups consulted	Date Consulted
	Staff Engagement Group	August 2019
	Regional Staff Side	November 2019
	Communications, Engagement, Equalities & Employment	March 2021

RATIFICATION SCHEDULE

Name of Committee approving Policy	Date
Communications, Engagement, Equality and Employment Committee	24.09.2019
Communications, Engagement, Equality and Employment Committee	02.03.2021
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VERSION CONTROL

Version	Version/Description of amendments	Date	Author/amended by
1	New Policy	July 2017	Caroline Lawrence
2	Amended to reflect that it covers all six CCGs	August 2019	Jane Chapman
3	Scheduled review	October 2020	Robert Downing (HR Business Partner, MLCSU)
4	Reviewed for readiness to ICS (originally to merge)	March 2021	Zena Richards, HR Business Partner MLCSU

Impact Assessments – available on request

	Stage	Complete	Comments
Equality Impact Assessment	1	July 2017	No changes required
Quality Impact Assessment	N/A		
Privacy Impact Assessment	N/A		

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1 **Policy Statement**

The six CCGs in Staffordshire and Stoke-on-Trent are committed to providing a healthy working environment for all employees. It is recognised that employees are more productive if they are able to strike a healthy balance between their life at work and at home. As part of this commitment, the organisation has developed and will continue to strengthen strategies and practices designed to ensure that members of staff do not work longer hours than necessary and have adequate breaks from work.

The Working Time Regulations 1998 sets out minimum safety and health requirements for the organisation of working time. The regulations apply to minimum periods of daily rest, weekly rest and annual leave, to breaks and maximum weekly working time and certain aspects of night work, shift work and patterns of work.

The regulations include provision for young workers for the number of hours worked and working pattern. A young worker is someone over school leaving age, but under the age of 18.

This policy and procedure has therefore been developed in accordance with the Working Time Regulations, and have been designed to help an employee and their manager to plan a 'healthy' working day and to monitor progress in this regard.

2 **Who does this Policy and Procedure apply to?**

This policy will be applied equally to all staff covered by the policy and in accordance with the CCGs' Diversity in Employment Policy.

3 **What counts as Working Time?**

An employee is considered by the organisation to be "working" when they are carrying out activities on behalf of the organisation. This will include:

- Travelling where it is part of your job.
- Working lunches (this is not encouraged and is separate to an employee's standard lunch break).
- Job-related training.
- Time spent at work for "on-call" purposes.
- Time spent working from home under the provisions of the Home Working Policy.
- Time spent working for another employer (including agency work / bank work / private practice).

Normal working time for the organisation will depend upon an employee's contracted hours, as noted within the Contract of Employment, and will be subject to the exclusions as listed in point 4. .

Secondary employment must also be considered if working hours go beyond the 48 hour working week.

N.B. Average working time for each seven-day period, including overtime, should not exceed an average of 48 hours over a seventeen-week period. The Working Time Regulations state that an employee should not work in excess of 48 hours per week unless they decide to formally opt out of this requirement. See point 17 for opt out arrangements.

4 **What does not count as Working Time?**

Working Time for the organisation does not include:

- Travelling between home and work unless the employee's contractual base location is their home address.
- Lunch or rest breaks when no work is done
- Evening classes or day-release courses (non-job related)
- Time spent at home whilst "on call", during which non-work related leisure activities can be pursued.
- Additional hours an employee may choose to do without being required by/or without the agreement of their manager. Please seek advice from your manager/HR department if you are unsure if this exception applies to you. See also point 16.
- Smoking / Vaping breaks.

5 **What is the minimum break I must take?**

You must take a break of at least 20 minutes (unpaid) if you work for 6 hours or more consecutively. This break must fall within your working hours and cannot be taken before or at the end of your working day.

You are entitled to a minimum daily rest period of 11 consecutive hours in any 24 hour period or compensatory rest for those staff on call. This is the total rest you would have had, had you not been at work.

Over a 7-day period, you are entitled to a minimum uninterrupted rest period of 24 hours plus the 11 hours daily rest as specified above.

6 **When can I take my breaks?**

To a certain extent this will depend on your role and departmental requirements and your manager will confirm the arrangements with you. You are entitled however to the minimum break as detailed in the point above.

Please note however that breaks are intended to be taken as rest periods during your working day. They cannot therefore be used at the beginning or end of your working day in order that you have delay to your start or finish early.

7 **What if I'm a young worker?**

A young worker is classed as anyone under the age of 18. The organisation does not permit young people to work in excess of 8 hours per day and they are also subject to a maximum working week of 40 hours. A young worker must have a rest break of at least 30 minutes if the working day lasts longer than 4.5 hours.

8 **What about my annual leave?**

Your annual leave provision will be detailed in your contract of employment and will meet or exceed the paid minimum 5.6 weeks per year requirement of the Working Time Regulations. This is inclusive of bank holiday entitlement and will be pro-rata for part time staff. Please refer to the Annual Leave policy when arranging your annual leave.

9 How will my working hours be recorded if above 48 hours?

Depending on your role, this may be on a formal time sheet, which your manager signs off, or this may be done more informally. You and your manager should agree an appropriate format. (See Appendix 2 for example timesheets)

You should always keep your own on-going record of the hours you work and should make a record of any hours you work over your contractual hours.

10 How will my working hours be monitored and reviewed?

Your manager has a responsibility to monitor the hours you work including any hours you work over and above your contractual hours to ensure that you are not working excessively. If you are regularly working beyond your contractual hours for a period exceeding 17 weeks, your manager will meet with you to discuss ways of reducing the number of hours you are working.

In addition, your manager should assess and formally record the average number of hours you work in a typical week during your annual PDR and review your opt-out arrangements.

11 Can I claim over-time pay if I work over my contractual hours?

As working excess hours is essentially a health and safety issue, it is not usual practice to pay overtime. Instead, lieu time is given as compensation for any additional hours worked. Lieu time will only be granted if your manager has approved you working additional hours prior to you undertaking them. However, in very exceptional circumstances, for bands 7 and below, it may be possible to have overtime pay granted and this must be agreed with your manager prior to working the additional hours.

Senior staff paid on Agenda for Change pay bands 8 or 9 will not be entitled to overtime payments.

12 Can I claim time off in lieu for any additional hours I work?

In the majority of cases, and where overtime is not paid, the CCGs operate a flexible approach to taking hours owed. However time off for working any additional hours should be agreed by your manager prior to you working any additional hours. This applies to all staff groups and should be agreed with your manager.

13 How do I claim for time in lieu?

You should agree with your manager when you would like to take the hours back and formalise this using the form in Appendix B. It is important that you use this form in order that your additional hours can be monitored on an on-going basis.

Your manager will only permit you to take the time back if service requirements can be met. If service requirements are adversely affected on the day you wish to reclaim your hours, you will be requested to wait until a more convenient period.

14 What happens if I'm unable to take time off that is owed to me?

If your claims to take time in lieu are repeatedly refused you should discuss the problem with your line manager or a member of the HR Team in the first

instance. If the problem is still not resolved, then you should raise a grievance using the CCGs' Grievance Procedure.

16 What If I regularly need to work above my contracted hours?

In theory, all jobs should be achievable in the contracted hours for the post and therefore the organisation does not regard it as acceptable practice for you to continually need to work above your contracted hours. If this is the case, you should discuss the situation with your line manager who will review your workload. If the situation is still not resolved you should refer to a member of the HR Team. You can also seek advice from your Staff Side / Trade Union Representative.

17 How can I opt out of the Working Time Regulations?

The CCGs do not encourage staff to work over 48 hours per week. However, should you wish to have the option of working over 48 hours per week (the maximum weekly limit) you will need to sign an opt-out agreement (see Appendix A).

For health and safety reasons, the organisation is required to keep a formal record of all opt-out agreements and it is therefore imperative that an agreement is in place for all employees who choose to work over 48 hours

If you have a second job (including agency work / bank work / private practice) and the total time worked in a week exceeds 48 hours, you must declare your second job and sign an opt-out agreement.

This agreement must be sanctioned and signed by your manager and must be accompanied by written evidence of what actions have been considered in order to minimise or eliminate the requirement to work long hours.

All new starters need to be aware of the working hours opt-out arrangements when they commence employment with the organisation.

You will therefore be issued with a copy of this policy that contains the opt-out clause when you start working for the organisation that makes it clear that the organisation does not encourage long hours working. If you decide to sign this form you are advised to consult your Staff Side / trade union representative if applicable) prior to doing so. After signing, you must return this form to your manager who will arrange for this to be kept on your personal file. This agreement will be reviewed with you on at least an annual basis.

18 How can I further achieve a Work / Life Balance?

For further information on ways to help you achieve a healthy work life balance see the CCGs' Mental Wellbeing and Resilience Policy, Flexible Working Policy, Career Break Policy and Home working Policy.

For further information about annual leave calculations and provisions please refer to the CCGs' Annual Leave Policy.

19 Equality

This policy has been assessed in relation to having due regard to the (1) the Public Sector Equality Duty three aims dropping down from the Equality Act 2010 to eliminate discrimination, harassment victimisation,; advance equality of opportunity;

and foster good relations, (2) the Health and Social Care Act 2012 re evidencing showing due regard to reducing health inequalities between the people of England.

20 **Counter Fraud**

The CCGs are committed to the NHS Protect Counter Fraud Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

21 **Review**

This policy and procedure will be reviewed after 3 years or earlier on the request of the Organisational Development Committee.

Opt-Out Agreement

You should complete this form if you work above 48 hours each week.

The Working Time Regulations define working time as when someone is “working, at his/her employer’s disposal and carrying out his/her activity or duties.”

This incorporates:

- Working lunches i.e. business lunches
- If you have to travel as part of your work
- If you are engaged in job-related training
- See also points 3 and 4 of the Working Time Policy

The number of hours worked each week should be averaged out over 17 weeks or for how long you have been employed if employed for less than 17 weeks.

You may agree to work more than 48 hours a week but cannot be forced or expected to work more than this limit. You cannot be dismissed or discriminated against for refusing to sign an opt out statement.

Should you wish to work more than the 48-hour week average, please sign the following opt-out agreement and return it to your manager. Your manager will then forward a copy of this to the Head of HR and OD.

Name _____

JobTitle: _____

Reporting to: _____

I agree that I may work for more than an average of 48 hours a week. If I change my mind, I will inform the CCGs, in writing, to end this agreement.

Signed: _____ Date: _____

Director’s Signature: _____ Date: _____

If you will be working more than 48hours a week because of a second job please give details below:

Job Title in second job: _____

Name and address of second employer: _____

Weekly hours worked for the organisation: _____

Weekly hours worked for second employer: _____

You should also complete the form in the Secondary employment policy.

Sample Timesheet

Appendix B

Name :

.....
 ...

WEEK 1: WEEK COMMENCING:

	AM			PM			DAILY TOTAL	INITIALS	
	FROM:	TO:	SUB-TOTAL	FROM:	TO:	SUB-TOTAL			
MON									
TUE									WK TOTAL
WED									
THU									DEBIT/
FRI									CREDIT

WEEK 2: WEEK COMMENCING:

	AM			PM			DAILY TOTAL	INITIALS	
	FROM:	TO:	SUB-TOTAL	FROM:	TO:	SUB-TOTAL			
MON									
TUE									WK TOTAL
WED									
THU									DEBIT/
FRI									CREDIT

WEEK 3: WEEK COMMENCING:

	AM			PM			DAILY TOTAL	INITIALS	
	FROM:	TO:	SUB-TOTAL	FROM:	TO:	SUB-TOTAL			
MON									
TUE									WK TOTAL
WED									
THU									DEBIT/
FRI									CREDIT

WEEK 4: WEEK COMMENCING:

	AM			PM			DAILY TOTAL	INITIALS	
	FROM:	TO:	SUB-TOTAL	FROM:	TO:	SUB-TOTAL			
MON									
TUE									WK TOTAL
WED									
THU									DEBIT/
FRI									CREDIT

	DEBIT	CREDIT
B/FORWARD		
THIS PERIOD (4 WEEKS)		
CARRIED FORWARD		

QuarterlyMonitoring

Month 1:

	Week Commencing	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Total No. of Hours
Wk 1									
Wk 2									
Wk 3									
Wk 4									
Wk 5									
Monthly Total									

Month 2:

	Week Commencing	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Total No. of Hours
Wk 1									
Wk 2									
Wk 3									
Wk 4									
Wk 5									
Monthly Total									

Month 3:

	Week Commencing	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Total No. of Hours
Wk 1									
Wk 2									
Wk 3									
Wk 4									
Wk 5									
Monthly Total									

Quarterly Total No. Hours:

Signed (Member of Staff)

Date:

Signed (Line Manager)

Date: