

London Ambulance Service NHS Trust

Guidelines on the Working Time Regulations

1. Introduction

These Guidelines have been jointly agreed to out-line Trust policy regarding compliance with The EC Working Time Directive. This document confirms the steps to be taken to achieve a situation where the average hours worked by any member of staff does not exceed an average of 48 per week.

2. Context

The EC Working Time Directive sets the framework for the regulation of working hours. It specifies the maximum number of hours which employees can be required to work, along with entitlements to rest and minimum annual leave periods, and special arrangements for night workers.

In particular, the Working Time Directive provides for minimum daily and weekly rest periods, annual paid holidays, a limit on the average working week, and restrictions on night work.

Section 44 of the General Whitley Council Handbook and Section 27 of the Agenda for Change terms and conditions handbook confirm the agreed arrangements in accordance with Regulation 23 of the Working Time Regulations 1998:

“There is a general responsibility for employers and employees under health and safety law to protect as far as is practicable the health and safety at work of all employees. Control on working hours should be regarded as an integral element of managing health and safety at work and promoting health at work. It is therefore appropriate that health service employers, when organising work, should take account of the general principle of adapting work to the worker.”

Regulation 18 of the Working Time Regulations confirms where derogations apply, but this is qualified by NHS terms and conditions in the context of ambulance services:

“In the case of employees unable to benefit from the protection of the Working Time Regulations, Ambulance service employers are expected to apply the principles of the regulations and this Agreement as far as the exigencies of the service permit.”

The aim of these guidelines is to recommend best practice for both employees and managers.

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3. Summary of Regulations

The working time limits are:

- A maximum of 48 hours per week, calculated as an average over a 17 week period.
- A daily rest period of 11 uninterrupted hours between each working day
- A weekly rest period of one whole day. This may be averaged over a two week period, i.e. two days off per fortnight.
- A minimum rest break of 20 minutes where the working day exceeds six hours, taken within that six hour period but not at the beginning or end of it.

There are also regulations which cover arrangements for night-work and minimum annual leave entitlements.

These standards may be varied in certain circumstances. For example they do not apply to shift workers where the change in the shift pattern prevents the minimum being applied, but in such instances an equivalent compensatory rest period should be granted as soon as possible.

3. Definitions

3.1 Working Time

Working time is defined in the Regulations as time when someone is “working, at the employer’s disposal and carrying out his activity or duties”. This will include:

- Working lunches, such as business lunches
- When a worker travels as part of his or her work (e.g. mobile repairs, travelling sales person)
- Time spent on training directly related to the job

The following are NOT included:

- Routine travel between home and work
- Rest breaks when no work is done
- Time spent travelling outside normal working time
- Training when not job-related

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3.2 Night Time

Night time may be defined by collective agreement, but the default position is that this is the period 2300 – 0600. Even if varied, the hours between midnight and 0500 must be included and the period in question must be at least seven hours long.

3.3 Night Workers

A night worker is someone who normally works at least three hours at night:

- On most days worked
- On the proportion of the days worked as defined in a collective agreement
- Often enough for it to be said that such hours are worked “as a matter of course”, i.e. on a regular basis.

It should be noted that there is nothing within the Regulations that precludes staff from working 12 hour shifts. However, according to the definition above, we should regard all staff who work rotating shifts, and some who work other shifts, as “night workers”.

3.4 Compensatory rest

Compensatory rest is a period of rest (or part period) the same length as the period missed by the worker. Compensatory rest must be taken within a reasonable period, and the principle is that everyone should get the basic entitlement of 90 hours rest per week on average, even if slightly delayed. 90 hours relates to six daily rest periods of 11 hours plus one weekly rest period of 24 hours.

4. Statement of Policy and Principles

The aim of London Ambulance Service NHS Trust is to apply the maximum limit of an average of no more than 48 hours of work per week over a 17 week reference period.

Hours worked will be closely monitored, and regularly reviewed with subsequent intervention to effect a reduction or apply the limit where deemed appropriate.

Where available, the appropriate features within resourcing software will be used to continuously calculate and monitor the average hours worked by individuals. If approval of a request for overtime work will serve to exceed the maximum limit, the request will be refused and the staff member advised of the reason.

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Regular management reports will be produced by Resource Centres and/or ambulance stations identifying the number of hours worked by all staff against the 17 week reference period. Levels of compliance with the 48 hour average weekly limit will form part of the review of key performance indicators at local level.

It is expected that senior managers and those who have autonomy over the hours that they work will seek to set an example by avoiding unnecessarily long working hours.

It is also the responsibility of employees to ensure that they do not work hours which could pose a threat to their own health and safety or that could impair the effective performance of the duties which they are employed to carry out.

Employees should discuss with their line managers any circumstances where they feel they are being required to work unreasonable hours or to contravene the regulations.

5. Working arrangements

There are a number of factors which together will contribute to managing the progress towards applying the maximum working week, and which should form specific principles to be applied when designing work patterns. These include:

5.1 General working patterns

- Ensuring that no rostered shift exceeds 12 hours' working time in duration.
- Limiting night work to an average (excluding overtime) of not more than 8 hours in every 24 hour period.
- Seeking to ensure that operational staff are allocated meal breaks.
- Regularly reviewing working patterns to ensure that these comply with the requirements of the Working Time Directive.

5.2 Overtime

- Applying a limit of 12 hours of work, including the rostered shift and any overtime. This means that staff rostered to work for 12 hours will not be offered or granted planned overtime, and that those working shifts of shorter duration are not offered overtime which will serve to extend their planned shift beyond 12 hours in total. ***(N.B. these provisions do not apply to circumstances in which completion of a call unavoidably leads to a late finish.)***
- Turning down requests to work on rostered rest or free days where to do so would breach the 48 hour limit.

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- Turning down further requests for overtime until it is clear that to do so would not breach the 48 hour limit, unless operational demands require this. Even then, the overtime will be approved only on the express instruction of a Manager of appropriate seniority. For A/E staff this will be the Ambulance Operations Manager (or “Silver” out of hours); for CAC the Senior Operation Officer or Superintendent; and for PTS the Site Manager.

5.3 Rest Periods

- Ensuring a daily rest period of not less than 11 consecutive hours, subject to the exceptions allowed due to shift change or extenuating circumstances requiring continuity of service provision.
- Where these provisions cannot be fulfilled, offering an appropriate period of compensatory rest. This must be planned to fall within a reasonable period, taking into account the need to maintain required levels of operational cover. It will not necessarily occur on the next rostered shift.
- Ensuring that there is a minimum of 8 hours between shifts.
- Ensuring that staff obtain the minimum weekly rest period of 35 hours.

5.4 Health Surveillance

- Ensuring that all staff whose working pattern includes regular night work are offered free health surveillance by the Trust’s Occupational Health Advisers.

5.5 Staff with second jobs/bank staff

- All directly employed staff and those engaged under the bank arrangements will be advised of the requirement to declare other employment and the number of hours worked in that employment.
- Periodic checks on bank staff will be made to enable the Trust to be satisfied that the weekly limit is not being breached.

6. Review

These arrangements will be subject to formal review not later than April 2006.

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