

WORKING TIME REGULATIONS

BREAKS, REST PERIODS AND RECORD KEEPING REQUIREMENTS

INTRODUCTION

The Working Time Regulations 1998 were introduced into domestic UK legislation on 1 October 1998. The Regulations provide basic entitlements to all workers regarding hours of work, nightworking, rest breaks, daily and weekly rest and annual leave entitlements. The Regulations have been introduced under Health and Safety and will be monitored and enforced under the relevant employment legislation.

Under the regulations adult workers have the right to:

- a minimum rest break of 20 minutes in the course of any working day that exceeds six hours
- a minimum daily rest period of at least 11 consecutive hours in each 24-hour period
- an uninterrupted weekly rest period of at least 24 hours

Modified arrangements apply to shift workers. Further information on shift working can be obtained from Employee Support, Employment Services Team or Human Resources.

Workers under the age of 18 are entitled to:

- a minimum rest break of 30 minutes in the course of any working day that exceeds four and a half hours
- a minimum daily rest period of at least 12 consecutive hours in each 24-hour period (although this rest period may be interrupted if periods of work are split up over the working day or are of short duration)
- an uninterrupted weekly rest period of at least 48 hours (although this may be interrupted in the case of activities involving periods of work that are split up over the day or are of short duration, and may be reduced where this is justified by technical or organisational reasons).

RECORD KEEPING

The Regulations require employers to keep and maintain adequate records for all workers, which are to be made available for inspection by the competent authority, the Health & Safety Executive.

The information should be recorded in a format which is easily accessible for each particular worker. This should be achieved through recording in the employee's personal file, either in a separate section in the file or in a separate file.

The following information is required to be maintained and available for inspection:

- Records of those working more than 48 hours, to include the individual opt-out agreement, and the terms thereof.
- Those working at night, the hours worked and those employed in areas involving special hazards and the hours worked.
- The requirement to ensure Health Assessments are being offered to employees working at night.

In addition, records should be maintained for *all workers*, regardless of their employment status, in order to monitor the actual time worked and to ensure on-going compliance with the Regulations.

The reference period for each permanent worker will be 17 weeks or more. However, the reference period for temporary or supply staff will be the actual number of weeks worked with the Council and accurate records will require to be kept for these employees.

What form shall records take?

The Council believes that the pay records for the hourly paid workers and those in receipt of overtime payments will be sufficient to show the hours the worker has worked over the Reference Period.

Timesheets should also be kept and maintained for these workers. Payroll will record the information provided to them in the form of timesheets, but Services require the data to be stored locally to enable calculation and monitoring of the working time to be undertaken. The information may be kept in the employee's personal file or in a separate file recording only working time.

Staff who work regular hours

Adequate records should be kept and maintained to show that the average 48 hour week has not been exceeded in the relevant reference period.

Line managers should inform employees prior to working in excess of their normal contractual hours that they are required to record the actual time worked. This will enable accurate records to be maintained and for compensatory rest to be calculated in respect of the relevant rest break entitlement.

Employees should then simply notify their manager or designated officer if they are working **in excess** of their normal contractual hours on a pre-printed form.

Normal hours are the employee's contractual hours of work. Employees who work flexi-time should only record the hours before 7.00 am and after 9.00 pm on the form, as the time worked during the day would be recorded on the flexi system. The form should also be completed for staff who attend evening meetings, etc.

Management practices introduced in this respect should be communicated to all current staff. This requirement should also be communicated to any new employees through an insert in the Induction Pack, regarding Working Time Regulations.

The completed forms should then be monitored by managers or designated officers to ensure compliance with the Regulations. If the forms show that the worker regularly works more than the average 48 hours over the agreed reference period, then appropriate action should be taken. No action is required if the employee works less than the average 48 hours over the agreed reference period.

Workers who have signed a 48-hour opt-out agreement

If the worker signs an individual opt-out agreement from the 48 hour average weekly working time limit, then the line manager or designated officer should meet to discuss the terms of the agreement and ask the individual to sign the opt-out agreement.

The Regulations require the employer to maintain up- to-date records for these individuals which:

- identify each worker who has signed an opt-out agreement; and
- set out the terms on which the worker agreed the opt-out; and

A copy of the agreement should be kept in the employee's personal file.

If an employee has two jobs

Where it has been identified that an employee has two jobs, then it is the Council's responsibility to ensure that the Working Time Regulations are not being breached.

All employees should be reminded of the "Other Work" policy regarding approval to undertake other employment.

In these circumstances, it may be appropriate to request the employee to sign an individual opt-out agreement. The information above would then require to be maintained.

Night Workers

If an employee has been identified as a night worker then the following information is required to be maintained:

- the average number of hours worked at night is not exceeded during the relevant reference period.
- if the worker has been identified as working in an area involving special hazards or heavy physical or mental strain, that the limit of 8 hours in any 24 hour period has not been breached.
- any person identified as a night worker must be offered a free health assessment prior to taking up night work and at regular intervals thereafter. This will probably be annually or arranged if the employee indicates that their health is suffering due to working at night.

Health Assessment

The Council will be utilising the Council's Medical Advisor to assess an employee's fitness for working at night. Employees should formally be offered the opportunity of a health assessment annually. Any offer of employment for night work will be subject to a satisfactory new employment health assessment.

The letter should be recorded in the individual's personal file.

If the employee wishes to accept the offer of the health assessment then arrangements should be made through the Council's Occupational Health Provider.