

# Working Time Policy

*We will provide this policy on request at no cost, in large print, in Braille, on tape or in another non-written format.*

## Introduction

The European Working Time Regulations 1998 aims to protect all workers from risks of working long hours, without appropriate rest periods, which could affect their health and safety.

The Working Time Regulations cover the following main areas:

- Minimum daily and weekly rest breaks
- Paid annual holiday
- Limits on the average number of hours which can be worked in one week
- Restrictions on hours worked at night

## Definitions

In the regulations and for the purpose of this policy:

<i>Young Worker</i>	A young worker who is under the age of 18.
<i>Working Time</i>	Any period when a worker is working, at the employer's disposal and carrying out their duties, in accordance with national law and/or practice. This includes periods when the worker is undergoing training directly related to their work, travel where it is part of the job, trade union or health and safety duties. It does not include travel between the worker's home and place of work, rest, and lunch breaks when no work is done.
<i>Rest Period</i>	Any period that is not working time.
<i>Night Time</i>	Any period of not less than seven hours, and which must include the period between midnight and 5am.
<i>Night Worker</i>	Any worker, who as a normal course, works at least three hours of their daily working time during night time.
<i>Shift Work</i>	Any method of organising work in shifts whereby workers succeed each other at the same work stations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks.
<i>Shift Worker</i>	Any worker whose work schedule is part of shift work.

## **Entitlements to Rest/Rest Breaks**

### Breaks

Adult workers are entitled to a minimum uninterrupted (unpaid) break of 20 minutes when working more than 6 consecutive hours. The break must not be taken either at the start, or at the end of a working day.

Young workers are entitled to a minimum uninterrupted (unpaid) break of 30 minutes when working more than 4.5 consecutive hours. The break must not be taken either at the start, or at the end, of a working day.

Where possible the break should be taken away from the work station.

### Daily Rest Periods

Adult workers are entitled to a minimum daily rest period of 11 consecutive hours per 24-hour period.

Young workers are entitled to a minimum daily rest period of 12 consecutive hours per 24-hour period.

### Weekly Rest Period

Adult workers are entitled to an uninterrupted rest period of not less than 24 hours in each 7-day period. This may be averaged over a two-week period, i.e. two days' rest over a fortnight. A week starts at midnight between Sunday and Monday.

Young workers are entitled to an uninterrupted weekly rest period of not less than 48 hours in each 7-day period.

## **Exceptions to Rest/Rest Breaks**

The right to minimum rest periods can be modified for shift workers and in special cases. Modifications may be required for emergencies and it may be impractical for some shift workers to take daily/weekly rest periods between shifts due to shift changes or working late/early shifts preventing employees from receiving the full rest break before starting their next shift.

## **Annual Leave Entitlements**

Wheatley Care's annual leave entitlement exceeds the requirements under the Regulations.

If you are not able to take statutory annual leave entitlement of 4 weeks (pro rata) due to sickness you will be entitled to carry this over to next leave year.

## **Calculation of Working Time**

Under the Working Time Regulations, the maximum working week limit is 48 hours averaged over a 17-week reference period.

The average weekly working time is calculated by dividing the total number of hours worked during the reference period.

Working hours includes sleepovers and overtime.

## **Sleepovers**

Employees who are required to sleepover are considered to be working, and the time they spend sleeping will be counted towards working time.

## **On-call**

For on-call time to be considered as working time the employee must be:

- Working
- At Wheatley Care's disposal, and
- Carrying out their duties/activities

Any time when employees are on call but are free to pursue their own activities is not considered as working time.

## **Night Workers**

Night worker's normal hours of work should not exceed 8 hours per 24-hour period, subject to the 17-week reference (averaging) period.

All night workers will be offered a night workers questionnaire to complete and return to Wheatley Care's occupational health provider.

Where occupational health has any queries regarding individual employees they will contact the employee direct to discuss these further.

Where an employee is deemed unfit by occupational health to continue working night duty discussions will take place with the employee with a view to transferring the employee to day duty.

## **Record Keeping**

Wheatley Care is required to maintain/record a variety of information to demonstrate that the organisation complies with weekly working and night working time limits/regulations. All records must be made available for inspection by the Health and Safety Executive on request, failure to maintain appropriate records may lead to the organisation facing formal action by the Health and Safety Inspectorate.

Standard records that are required to be kept are:

- Employees working in excess of 48 hours per week (averaged over the 17-week reference period)
- Written agreement by employees to work regularly in addition to 48 hours per week
- Record of hours worked by individual employees if working in excess of 48-hour limit
- Records that demonstrate night working limits are complied with
- Records of night workers' health assessment

## **Timesheets**

All employees are required to complete daily timesheets declaring their hours and these will be monitored by line managers as to whether, on average, employees have worked in excess of the 48-hour maximum working week.

## **Secondary Employment**

Employees are under a duty of care to ensure that their own health, safety and welfare and that of others is not adversely affected by the total hours worked at Wheatley Care or combined with hours worked in a second job.

Employees have a duty to disclose to their line manager whether they do additional work for another employer and the number of hours worked. Employees must ensure that they do not work over the maximum weekly time limit when their hours for both employers are added up.

## **Responsibilities**

## Human Resources

- Human Resources will advise and guide managers on all aspects of this policy.
- They will retain records in employee's personnel files of any opt-out agreements.

## Line Managers

- Line managers are responsible for adhering to this policy and ensuring employees are aware of the policy and understand their responsibilities in relation to it.
- Where an employee has an external/additional job line managers must take all reasonable steps to ensure that the employee does not exceed an average of 48 hours a week
- Line managers are required to monitor the working hours of employees and investigate any potential or actual breaches of the Regulations, taking the necessary action to correct this.
- Line managers must ensure that employees receive their entitlement to daily and weekly rest periods and daily rest breaks.
- Those employees who chose to opt out of the maximum working time must complete an opt-out form and line managers should then pass this form onto HR to be retained in the employee's personnel file.
- Line managers should identify those employees who are between the ages of 16 to 18 to ensure that the Regulations are observed.
- Line managers must issue a night worker assessment questionnaire to those employees engaging in night work and complete a risk assessment with night workers.
- Line managers must inform senior employees within the service/section of employees who have opted out and those identified as young workers.

## Employees

- Require to take annual leave
- Employees must ensure that they take appropriate rest breaks
- Employees must inform their line manager of any additional employment and the hours they work
- Complete timesheets accurately
- If employees chose to opt out they complete an opt out agreement form
- Employees who opt out must not work more than 60 hours per week

## **Opt-out Procedure**

In normal circumstances employees should not be expected to work over an average of 48 hours per week on a regular basis.

However, there may be circumstances when an employee agrees to exceeding the maximum weekly limit (averaged over 17 weeks). Such circumstances might involve overtime, sleepovers or on-call work.

Employees will only be permitted to work in excess of an average of 48 hours per week averaged over a seventeen-week period if they agree officially to opt out by providing a written agreement of this.

An opt-out agreement form is attached at Appendix 1. This should be completed by the employee after discussion with their line manager during the first week of employment. The line manager will forward the form onto HR for retention in the employee's personnel file.

Employees who choose to opt out of the 48 hour working week must not work more than an average of 60 hours per week over a 17-week reference period.

The opt-out agreement applies from the date employees sign the form and continues for the duration of the employee's employment with the organisation.

Both the organisation and the employee can cancel the agreement at any time, provided at least one month's notice is given in writing.

## Appendix 1

### OPT OUT AGREEMENT TO DISAPPLY THE 48 HOUR WEEK

I \_\_\_\_\_ have discussed the 48 hour weekly working time limit, with \_\_\_\_\_ representing Wheatley Care on the \_\_\_\_\_

Following this discussion, I agree that:

- 1) The average 48 hour weekly working time limit imposed under Regulation 4(l) of the Working Time Regulations does not apply to me.
- 2) This agreement applies from the date below and will continue for the duration of my employment with Wheatley Care.
- 3) This agreement will be terminated if:
  - a) I give one months notice in writing to Wheatley Care
  - b) Wheatley Care gives me one months notice in writing

I have read and understood the above and freely give my agreement to it.

Signed \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_