

## WORKING TIME REGULATIONS POLICY

**April 2018**

<b>Authorship :</b>	CSU Transition HR Policy Lead - adapted for local use by eMBED on behalf of NHS Vale of York CCG.
<b>Reviewing Committee :</b>	Social Partnership Forum
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<b>Related Policies :</b>	<ul style="list-style-type: none"> <li>• Disciplinary Policy</li> <li>• Annual Leave Policy</li> <li>• Grievance Policy</li> <li>• Policy on Business Conduct</li> <li>• Conflict of Interests Policy</li> </ul>
<b>Target Audience :</b>	All CCG employees and also workers whilst they are working at the CCG, for example agency workers and some contractors.
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The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.

## POLICY AMENDMENTS

Amendments to the policy will be issued from time to time. A new amendment history will be issued with each change.

<b>New Version Number</b>	<b>Issued by</b>	<b>Nature of Amendment</b>	<b>Approved by and Date</b>	<b>Date on Internet</b>
DRAFT	NHS Vale of York CCG	Draft policy for CCG	Executive -19 July 2017	
DRAFT	NHS Vale of York CCG	Draft policy for CCG	SPF – May 2017	
V1.1	NHS Vale of York CCG	General Data Protection Regulations wording	SPF – 10 January 2018 CCG Executive - 04 April 2018	10 May 2018

To request this document in a different language or in a different format, please contact:

NHS Vale of York Clinical Commissioning Group on  
01904 555 870 or [valeofyork.contactus@nhs.net](mailto:valeofyork.contactus@nhs.net)

## Table of Contents

1	INTRODUCTION .....	4
2	ENGAGEMENT .....	4
3	IMPACT ANALYSES .....	4
4	SCOPE .....	5
5	POLICY PURPOSE AND AIMS.....	5
6	DEFINITIONS.....	5
7	ROLES / RESPONSIBILITIES / DUTIES .....	6
8	IMPLEMENTATION.....	7
9	TRAINING AND AWARENESS .....	7
10	MONITORING AND AUDIT .....	7
11	POLICY REVIEW .....	7
12	REFERENCES .....	7
13	ASSOCIATED DOCUMENTATION .....	8
14	PART 2 PROCEDURE .....	9
1	PRINCIPLES OF THE WORKING TIME REGULATIONS AND SECONDARY EMPLOYMENT .....	9
2	WORKING TIME LIMITS.....	9
3	REST PERIODS.....	9
4	SECONDARY EMPLOYMENT .....	10
5	ON CALL .....	10
6	ANNUAL LEAVE .....	11
7	APPEAL.....	11
8	RECORDS.....	11
9	NO DETRIMENT .....	11
15	APPENDIX 1 : WORKING TIME REGULATIONS OPT OUT FORM .....	12
16	APPENDIX 2 : DECLARATION OF SECONDARY EMPLOYMENT .....	13
17	APPENDIX 3 : EQUALITY IMPACT ANALYSIS.....	15
18	APPENDIX 4 : SUSTAINABILITY IMPACT ASSESSMENT .....	18

## **1 INTRODUCTION**

- 1.1 NHS Vale of York Clinical Commissioning Group, hereafter referred to as 'the CCG', understand that the monitoring and enforcement of working time regulations (WTR) are a vital tool in ensuring the working time and working patterns of employees of the CCG are conducive to a healthy workplace for both staff and patients.
- 1.2 The Working Time Directive 1998 lays down minimum conditions relating to weekly working time, rest entitlements and annual leave, and makes special provision for working hours and health assessments in relation to night workers.
- 1.3 The Directive imposes responsibilities on both managers and employees to ensure that working time conditions and safe working arrangements are observed. This policy outlines those responsibilities as well as providing guidance on how the working time regulations apply to the CCG and its employees.
- 1.4 The CCG is committed to ensuring that all personal information is managed in accordance with current data protection legislation, professional codes of practice and records management and confidentiality guidance. More detailed information can be found in the CCG's Data Protection and Confidentiality and related policies and procedures.

## **2 ENGAGEMENT**

- 2.1 This policy has been developed by the Business Service Authority (BSA) and adapted for local use by eMBED's Workforce Team in partnership with employees, managers and trade unions and approved at the Social Partnership Forum (SPF).

## **3 IMPACT ANALYSES**

### **3.1 Equality**

In applying this policy, the CCG will have due regard to the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

In developing this policy, an Equality Impact Analysis has been undertaken and the results are attached at Appendix 3.

### **3.2 Sustainability**

A Sustainability Impact Assessment has been completed for this policy and is attached at Appendix 4.

### **3.3 Bribery Act 2010**

The CCG follows good NHS business practice as outlined in the Business Conduct Policy and the Conflicts of Interest Policy and has robust controls in place to prevent bribery. Due consideration has been given to the Bribery Act 2010 in the development of this policy document and no specific risks were identified.

## **4 SCOPE**

- 4.1 This policy applies to all CCG employees. The Working Time Regulations also cover workers whilst they are working at the CCG, for example agency workers and some contractors. This policy does not apply to Governing Body members on honorary contracts. This policy supersedes all previous policies on Working Time Regulations.

## **5 POLICY PURPOSE AND AIMS**

- 5.1 This document sets out the CCG's standard Working Time Regulations and includes staff undertaking secondary employment. It has been drafted to comply with statutory requirements. This should be read together with other relevant CCG policies, procedures and local guidance.

## **6 DEFINITIONS**

- 6.1 Adult Worker a worker aged 18 or over
- 6.2 On Call counts as working time from when the employee is called upon to undertake any work related activity up until the time the employee returns home or finishes advising over the telephone.  
Where employees are on-call but otherwise free to pursue time as their own, this will not count towards working time. This method of calculating working time will not affect on-call payments.
- 6.3 Rest Break means an uninterrupted break that is taken during the working day
- 6.4 Rest Period means a period which is not working time, other than a break or leave to which the worker is entitled
- 6.5 Worker is defined as someone who has a contract of employment with the CCG, or any other contract, whether expressed or implied and whereby the individual undertakes to do or perform personally any work or services for the CCG

- 6.6 Working Time means :
- a. any period during which a worker is working
  - b. any period during which a worker is receiving relevant training
  - c. travelling time whilst on CCG business
  - d. time to attend civic and public duties, health and safety and trade union duties

This excludes annual leave, sick leave, maternity / adoption leave as the worker is not required to carry out any duties during these times

- 6.7 Young Worker a worker over school leaving age but under the age of 18

## **7 ROLES / RESPONSIBILITIES / DUTIES**

### **7.1 Joint Responsibility**

Good working relations are vital for the CCG to operate successfully and provide its essential services. Management, trade unions and employees accept the responsibility of working together on issues in good faith and with goodwill with the shared intention of facilitating good working relations. Both the CCG and staff side would wish to discourage any individual from exceeding the 48 hours per week maximum average.

### **7.2 HR Responsibility**

- To work in partnership with managers and Employee Representatives to ensure employees are treated fairly and consistently within the framework of the policy.
- To maintain a record of any individuals who have opted out of the maximum working week due to secondary employment.
- To advise managers of options available should an employee be managed under this policy.

### **7.3 Manager's Responsibility**

- To ensure that the regulations outlined in this document are adhered to at all times and ensure their staffing rotas are Working Time Directive compliant.
- To ensure employees are made aware of this policy and understand their responsibilities in relation to it.
- To ensure the working hours of their staff are monitored to ensure that they are not in breach of the policy.
- To record on personal files any individuals who have opted out of the maximum working week due to secondary employment.
- To keep appropriate records pertaining to annual leave and bank holidays for their employees.

- To ensure that employees take their entitled rest period and breaks to reduce the risk of fatigue, loss of concentration and associated stress.

#### **7.4 Employee Responsibility**

- Ensure they take appropriate rest breaks in agreement with their line manager and in line with this policy.
- Inform their line manager of any other additional employment and the hours they work, including bank and agency work.
- Make their manager aware if they believe that their working pattern is in breach of this policy.
- Where an employee is uncertain as to the application of any aspect of the regulations, they should contact Human Resources for further clarification.

### **8 IMPLEMENTATION**

- 8.1 This policy will be communicated to staff via team meetings/team brief and will be available for staff on the intranet.
- 8.2 Breaches of this policy may be investigated and may result in the matter being treated as a disciplinary offence under the CCG's disciplinary procedure.

### **9 TRAINING AND AWARENESS**

- 9.1 A copy of the policy will be available on the CCG internet. Training needs will be identified via the appraisal process and training needs analysis.

### **10 MONITORING AND AUDIT**

- 10.1 The implementation of this policy will be audited on an annual basis by the CCG and reported to CCG Governing Body.

### **11 POLICY REVIEW**

- 11.1 The policy and procedure will be reviewed after 3 years for the CCG Governing Body in conjunction with Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

### **12 REFERENCES**

- 12.1 For further information please refer to the following reference sources :
- Working Time Directive 1998
  - Agenda for Change Terms and Conditions handbook

## **13 ASSOCIATED DOCUMENTATION**

- Disciplinary Policy
- Annual Leave Policy
- Grievance Policy
- Policy on Business Conduct
- Conflict of Interests Policy

## **14 PART 2 PROCEDURE**

### **1 PRINCIPLES OF THE WORKING TIME REGULATIONS AND SECONDARY EMPLOYMENT**

- 1.1 The Working Time Regulations came into force in the United Kingdom on 01 October 1998. They were introduced as a health and safety measure and cover rest periods, working time limits, night work, secondary employment and annual leave. They control both hours of work, and the pattern in which work can be organised.
- 1.2 Unless they consent, a worker should not work in excess of 48 hours per week average. The organisation will take all reasonable steps to comply with this limit. Should the employee wish to opt out they should complete **Appendix 1** and return it to their line manager.
- 1.3 Employees working for more than one employer or who also undertake work through self-employment should still not exceed the 48 hour limit with regards to their total average weekly working time. Secondary employment includes working on the bank or work undertaken through an agency.

### **2 WORKING TIME LIMITS**

- 2.1 A member of staff must not work more than an average of 48 hours per week, calculated over a 17-week reference period.
- 2.2 In exceptional circumstances for those health professionals providing continuous care relating to reception, treatment or care of patients, the reference period may be extended to a maximum of 26 weeks with the agreement of the relevant Trade Union and management representative.
- 2.3 Young workers, those over the minimum school leaving age but under 18, may not work more than 8 hours a day or 40 hours a week. These hours cannot be averaged out, and there is no opt-out available

### **3 REST PERIODS**

- 3.1 Staff are entitled to daily and weekly rest periods and in work rest breaks;
- A daily rest period of not less than 11 consecutive hours in each 24-hour period during which the employee works.
  - Employees are entitled to an uninterrupted weekly rest period of not less than 24 hours (including the 11 hours of daily rest) in each 7-day period. This may be averaged over 2 weeks i.e. 48 hours rest over a fortnight.
  - A minimum uninterrupted break of 20 minutes if your daily working time exceeds 6 hours. The break is unpaid.

- Young workers are entitled to a break of 30 minutes if they work a 4½-hour period. They are entitled to a daily rest period of 12 consecutive hours in each 24-hour period and to 48 hours' uninterrupted rest in any 7-day period.
- 3.2 Please note that breaks are intended to be taken as rest periods during the working day. They cannot therefore be used at the beginning or end of the working day in order that employees may delay their start or finish early.
- 3.3 If employees cannot take their daily and weekly rest periods, for business reasons and agreed with their line manager, they are entitled to compensatory rest.
- 3.4 Unless there are exceptional circumstances, equivalent periods of compensatory rest should be given. Exceptional circumstances would include a need to provide security or protect persons or property, a foreseeable surge in activity e.g. winter pressures, or unforeseen circumstances beyond the employers control, e.g. unexpected weather, major incident, pandemic which demand extra work to be carried out.
- 3.5 Compensatory rest should be taken as soon as is reasonably practicable, and normally within 2 weeks.
- 3.6 Where breaks are provided but not taken, or because of an emergency staff cannot be given compensatory rest, managers must work closely with the affected member(s) of staff in order to identify any health and safety concerns.

## **4 SECONDARY EMPLOYMENT**

- 4.1 All secondary employment should be declared by the employee on appointment to the CCG by completion of a Declaration of Secondary Employment Form (**Appendix 2**), and should inform their line manager of any changes to their secondary employment as soon as possible.
- 4.2 Employees who propose to take up secondary employment during the course of their employment with the CCG should discuss this with their line manager, so that any implications for their role with the CCG and Working Time Regulations can be considered.
- 4.3 Where an employee commences secondary employment during the course of their employment with the CCG, they should complete the 'Declaration of Interests and Secondary Employment/Private Practice Form', which forms **Appendix B** of the **Conflict of Interests Policy**.

## **5 ON CALL**

- 5.1 For the purpose of the WTR working time will not start until the employee on call receives a call to go to work immediately, or responds to a call to deal with an incident over the phone and continues for the period they are working.

## **6 ANNUAL LEAVE**

- 6.1 Under the WTR a worker is entitled to a statutory minimum of 28 days paid leave per annum, including bank holidays.
- 6.2 Employees are encouraged to take their full contractual annual leave as per their contract of employment. For health and safety reasons employees must as a minimum take their full statutory holiday entitlement allowance.
- 6.3. Further information on annual leave entitlements under the Agenda for Change Terms and Conditions are set out in the Agenda for Change Handbook, and in the Annual Leave Policy.

## **7 APPEAL**

- 7.1 If an employee considers that he/she has been unfairly treated with regard to his/her working hours, he/she is requested to raise this informally with his/her manager in the first instance. If the employee is not satisfied following this route, he/she has the right to raise a grievance in accordance with the CCG's Grievance Policy.

## **8 RECORDS**

- 8.1 Line Managers are responsible for ensuring records of secondary employment are kept on personal files as well as any other documentation regarding working time limits.

## **9 NO DETRIMENT**

- 9.1 No employee should suffer any detriment as a result of exercising any entitlement under the Working Time Regulations. This includes any discrimination or disadvantage because of family or carer responsibilities.
- 9.2 Employees should raise any concerns with their line manager in the first instance or seek further advice from a member of the workforce team, or their Trade Union representative as soon as they arise.



**Working Time Regulations 1998 – OPT OUT FORM**

Under the regulations I am entitled not to work for more than an average of 48 hours per week.

In completing this form, I am choosing to opt out of the 48 hour working limit. Please note that rest periods and breaks still apply.

**Agreement**

I ..... hereby give you notice that I am willing to work, more than an average of 48 hours a week.

In opting out of the 48-hour limit, I agree that I will not work excessively long hours where this may be a risk to the health and safety of my colleagues, the public or myself.

This agreement is to remain effective for an indefinite period and I understand that should I wish to terminate this agreement, I can do so at any time by providing my manager with written notice of my intention to do so.

Signed: .....

Team: .....

Date:.....

**Please return to your manager, who is required to keep a copy of this form on your personal file.**

**16 APPENDIX 2 : DECLARATION OF SECONDARY EMPLOYMENT**



1. **I do / do not (delete) have secondary employment / private practice (delete).**
  
2. **I undertake to notify any changes to my manager who will inform the Workforce Team without delay.**

To be completed by the employee

Signed	
Name (print)	
Job Title	
Department	
Work Location	
Number of contracted hours per week for the organisation	
Date	

To be completed by the manager

Name of Line Manager (print)	
Job Title of Line Manager	
Date	
Signature of Line Manager	

**Employee: please complete the secondary / practice employment proforma overleaf before returning to the Workforce Team.**

**DETAILS OF SECONDARY EMPLOYMENT**

(Strike through if not applicable)

Name of Employer	
Nature of Employment	
Average hours per week (average based on a 17 week period)	
Date commenced	

**DETAILS OF PRIVATE PRACTICE**

(Strike through if not applicable)

Name of Business	
Nature of Business	
Estimated average hours per week (average based on a 17 week period)	
Date Commenced	

Please return your complete form to :

Workforce Team  
eMBED  
Health House  
Grange Park Lane  
Willerby  
HU10 6DT

## 17 APPENDIX 3 : EQUALITY IMPACT ANALYSIS

<b>1.</b>	<b>Title and Covalent Ref of policy/ programme/ service being analysed</b>
	Working Time Regulations Policy
<b>2.</b>	<b>Please state the aims and objectives of this work.</b>
	This document sets out the CCG's standard Working Time Regulations and includes staff undergoing secondary employment. It has been drafted to comply with statutory requirements.
<b>3.</b>	<b>Who is likely to be affected? (e.g. staff, patients, service users)</b>
	Staff
<b>4.</b>	<b>What sources of equality information have you used to inform your piece of work?</b>
	Staff equalities data
<b>5.</b>	<b>What steps have been taken ensure that the organisation has paid <u>due regard</u> to the need to eliminate discrimination, advance equal opportunities and foster good relations between people with protected characteristics</b>
	The analysis of equalities is embedded within the CCG's Committee Terms of Reference and project management framework.
<b>6.</b>	<b>Who have you involved in the development of this piece of work?</b>
	Staff
<b>7.</b>	<b>What evidence do you have of any potential adverse or positive impact on groups with protected characteristics? Do you have any gaps in information? Include any supporting evidence e.g. research, data or feedback from engagement activities</b>
	<b>(Refer to Error! Reference source not found. if your piece of work relates to commissioning activity to gather the evidence during all stages of the commissioning cycle)</b>
<b>Disability</b> People who are learning disabled, physically disabled, people with mental illness, sensory loss and long term chronic conditions such as diabetes, HIV)	Consider building access, communication requirements, making reasonable adjustments for individuals etc.

The policy adheres to legislation and is available to staff who may become disabled in the future.	
<b>Sex</b> Men and Women	Consider gender preference in key worker, single sex accommodation etc.
Considered – neutral impact	
<b>Race or nationality</b> People of different ethnic backgrounds, including Roma Gypsies and Travellers	Consider cultural traditions, food requirements, communication styles, language needs etc.
Considered – neutral impact	
<b>Age</b> This applies to all age groups. This can include safeguarding, consent and child welfare	Consider access to services or employment based on need/merit not age, effective communication strategies etc.
Workers who are between the ages of 16-18 are required to work fewer hours than adults. Whilst the CCG does not employ anyone in this age group, the policy is written to adhere to the legislation with regard to this.	
<b>Trans</b> People who have undergone gender reassignment (sex change) and those who identify as trans	Consider privacy of data, harassment, access to unisex toilets & bathing areas etc.
Considered – neutral impact	
<b>Sexual orientation</b> This will include lesbian, gay and bi-sexual people as well as heterosexual people.	Consider whether the service acknowledges same sex partners as next of kin, harassment, inclusive language etc.
Considered – neutral impact	
<b>Religion or belief</b> Includes religions, beliefs or no religion or belief	Consider holiday scheduling, appointment timing, dietary considerations, prayer space etc.
Considered – neutral impact	
<b>Marriage and Civil Partnership</b> Refers to legally recognised partnerships (employment policies only)	Consider whether civil partners are included in benefit and leave policies etc.
Considered – neutral impact	

<p><b>Pregnancy and maternity</b> Refers to the pregnancy period and the first year after birth</p>	<p>Consider impact on working arrangements, part-time working, infant caring responsibilities etc.</p>
<p>Considered – no impact</p>	
<p><b>Carers</b> This relates to general caring responsibilities for someone of any age.</p>	<p>Consider impact on part-time working, shift-patterns, options for flexi working etc.</p>
<p>The policy follows the provisions of national legislation.</p>	
<p><b>Other disadvantaged groups</b> This relates to groups experiencing health inequalities such as people living in deprived areas, new migrants, people who are homeless, ex-offenders, people with HIV.</p>	<p>Consider ease of access, location of service, historic take-up of service etc.</p>
<p>Considered – neutral impact.</p>	
<p><b>8. Action planning for improvement</b> Please outline what mitigating actions have been considered to eliminate any adverse impact? Specific guidance to managers of staff aged under 18 drawing their attention to the provisions of the working time directive.</p> <p>Please state if there are any opportunities to advance equality of opportunity and/ foster good relationships between different groups of people? N/A</p> <p>An Equality Action Plan template is appended below to assist in meeting the requirements of the general duty</p>	
<p><b>Approved By</b> <b>Job Title :</b> <b>Name :</b> <b>Date :</b></p>	

## 18 APPENDIX 4 : SUSTAINABILITY IMPACT ASSESSMENT

Staff preparing a policy, Governing Body (or Sub-Committee) report, service development or project are required to complete a Sustainability Impact Assessment (SIA). The purpose of this SIA is to record any positive or negative impacts that this is likely to have on sustainability.

<b>Title of the document</b>	<b>Working</b>
<b>What is the main purpose of the document</b>	To set out the CCG's approach to the monitoring and enforcement of working time regulations (WTR) which are a vital tool in ensuring the working time and working patterns of employees of the CCG are conducive to a healthy workplace for both staff and patients.
<b>Date completed</b>	27.11.14
<b>Completed by</b>	V Burgess, HR Manager

<b>Domain</b>	<b>Objectives</b>	<b>Impact of activity</b> Negative = -1 Neutral = 0 Positive = 1 Unknown = ? Not applicable = N/A	<b>Brief description of impact</b>	<b>If negative, how can it be mitigated? If positive, how can it be enhanced?</b>
<b>Travel</b>	Will it provide / improve / promote alternatives to car based transport? Will it support more efficient use of cars (car sharing, low emission vehicles, environmentally friendly fuels and technologies)? Will it reduce 'care miles' (telecare, care closer) to home? Will it promote active travel (cycling, walking)? Will it improve access to opportunities and facilities for all groups?	N/A		
<b>Procurement</b>	Will it specify social, economic and environmental outcomes to be accounted for in procurement and delivery? Will it stimulate innovation among providers of services related to the delivery of the organisations' social, economic and environmental objectives? Will it promote ethical purchasing of goods or	N/A		

	<p>services?</p> <p>Will it promote greater efficiency of resource use?</p> <p>Will it obtain maximum value from pharmaceuticals and technologies (medicines management, prescribing, and supply chain)?</p> <p>Will it support local or regional supply chains?</p> <p>Will it promote access to local services (care closer to home)?</p> <p>Will it make current activities more efficient or alter service delivery models</p>			
<b>Facilities Management</b>	<p>Will it reduce the amount of waste produced or increase the amount of waste recycled?</p> <p>Will it reduce water consumption?</p>	N/A		
<b>Workforce</b>	<p>Will it provide employment opportunities for local people?</p> <p>Will it promote or support equal employment opportunities?</p> <p>Will it promote healthy working lives (including health and safety at work, work-life/home-life balance and family friendly policies)?</p> <p>Will it offer employment opportunities to disadvantaged groups?</p>	N/A		
<b>Community Engagement</b>	<p>Will it promote health and sustainable development?</p> <p>Have you sought the views of our communities in relation to the impact on sustainable development for this activity?</p>	N/A		
<b>Buildings</b>	<p>Will it improve the resource efficiency of new or refurbished buildings (water, energy, density, use of existing buildings, designing for a longer lifespan)?</p> <p>Will it increase safety and security in new buildings and developments?</p> <p>Will it reduce greenhouse gas emissions from transport (choice of mode of transport, reducing need to travel)?</p> <p>Will it provide sympathetic and appropriate landscaping around new development?</p>	N/A		

	Will it improve access to the built environment?			
<b>Adaptation to Climate Change</b>	Will it support the plan for the likely effects of climate change (e.g. identifying vulnerable groups; contingency planning for flood, heat wave and other weather extremes)?	N/A		
<b>Models of Care</b>	Will it minimising 'care miles' making better use of new technologies such as telecare and telehealth, delivering care in settings closer to people's homes? Will it promote prevention and self-management? Will it provide evidence-based, personalised care that achieves the best possible outcomes with the resources available? Will it deliver integrated care, that co-ordinate different elements of care more effectively and remove duplication and redundancy from care pathways?	N/A		