

Working Time Regulations Policy

This policy sets out the framework for the organisation's compliance with the Working Time Regulations 1998.

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Version Control and Summary of Changes

Version number	Date	Comments (description change and amendments)
1	13/08/2014	
2	16/09/2014	Layout revision and amendments from comments received 12 September 2014
3	21/10/2014	Inclusions of requirement to undertake a risk assessment before opt out allowed. (Staff Side suggestion)
4	27/01/2015	Formatting issues corrected
5	11/02/2015	6.5.2 Deletion of reference to bank workers holding substantive employment
6	18/03/2015	Change of Headquarters postcode on forms
7	16/11/2018	Layout revision and inclusions made as outlined in the Agenda for Change terms and conditions (2018).

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Operational HR Team
Equalities Team
Staffside
Workforce & Wellbeing Group

All Trust Policies can be provided in large print or Braille formats, if requested and an interpreting service is available as required.

Equality Statement

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the provisions of the Equality Act 2010 and promotes equal opportunities for all. This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

In carrying out its functions, LPT must have due regard to the different needs of different protected equality groups in their area.

This applies to all the activities for which LPT is responsible, including policy development and review.

Due Regard

The Trust's commitment to equality means that this policy has been screened in relation to paying due regard to the public sector equality duty, (Equality Act 2010) in relation to all the relevant protected characteristics.

Please refer to Appendix 8 for details of the due regard screening.

Definitions that apply to this Policy

Adult Worker	Definition from Working Time Regulations 1998. A worker aged 18 or over. This would include both Trust employees and bank workers.
Night Time	Means a period: a. Which is not less than 7 hours and b. Which includes the period between 11 pm and 6 am
Night Work	Means work during night time
Night Worker	Definition from Working Time Regulations 1998. A worker who, as a normal course, regularly works at least 3 hours daily during night time. This would include both Trust employees and bank workers.
On Call	Counts as working time from when the employee or bank worker is called upon to undertake any work related activity up until the time the return home or the provision of advice is completed over the telephone. Where individuals 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 effect on-call payments
Rest Break	Means an uninterrupted break that is taken during the working day
Rest Period	Means a period which is not working time, other than a break or leave to which the worker is entitled

Shift Work	Means a method of organising work in shifts whereby workers succeed each other at the same workstations according to a certain pattern including a rota, entailing the workers to work at different times over a given period of days or weeks
Shift Worker	An employee or bank worker whose work schedule is part of shift work
Staff	This includes employees and bank workers.
Worker	Is defined within the Working Time Regulations as someone who has a contract of employment with the Trust, or any other contract, whether expressed or implied and whereby the individual undertakes to do or perform personally any work or services for the Trust
Working Time	<p>Means:</p> <ol style="list-style-type: none"> any period during which a worker is working any period during which a worker is receiving relevant training travelling time whilst on Trust business time taken for civic and public duties, health and safety and trade union duties <p>Working time excludes annual leave, sick leave, maternity / adoption leave as the worker is not required to carry out any duties during these times. It also does not include:</p> <ul style="list-style-type: none"> Routine travel between home and work Rest breaks and meal breaks when no work is done. Stand by or on call, but otherwise free to pursue own activities and not interrupted (i.e. staff on call at home). This point is covered in more detail later in the guidance document. Training such as non-job-related evening classes or day release courses. <p>This list detailed is not exhaustive, but is given as an example.</p>
Young Worker	Definition from the Working Time Regulations 1998. A worker over school leaving age but under the age of 18. This would include employees and bank workers
Due Regard	<p>Having due regard for advancing equality involves:</p> <ul style="list-style-type: none"> Removing or minimising disadvantages suffered by people due to their protected characteristics. Taking steps to meet the needs of people from protected groups where these are different from the needs of other people. <p>Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low</p>

1.0 Purpose of the Policy

The aim of this policy is to provide information to management and staff on the provisions of the Working Time Regulations Act 1998 (WTR). Staff will suffer no detriment for exercising any of their entitlements under the Regulations.

This Policy applies to all employees in the Trust and bank workers but excluding Doctors in Training for whom separate arrangements apply.

In the event of an infection outbreak, flu pandemic or major incident, the Trust recognises that it may not be possible to adhere to all aspects of this document. In such circumstances, staff should take advice from their manager and all possible action must be taken to maintain ongoing patient and staff safety.

2.0 Summary

This document sets out the Trust's policy relating to the Working Time Regulations Act 1998 and its application to staff within the organisation. The Policy provides an overview of the main subjects to help managers and employees with the implementation of the policy.

The policy outlines the circumstances in which employees can "opt out" of the 48 hour average weekly working limit.

3.0 Introduction

The Working Time Regulations Act 1998 (WTR) set down entitlements of employees to maximum working hours, rest periods, rest breaks whilst at work, annual leave and working arrangements for night workers.

The Leicestershire Partnership NHS Trust is committed to the health and safety of its employees and recognises its obligations within the Regulations.

Under the health and safety at work legislation there is a responsibility on all employers for the health, welfare and safety of their employees, as far as practicable. Management and control of working hours should be regarded as an integral element of promoting and managing the health and welfare of employees.

4.0 Duties within the Organisation

- 4.1 The Trust Board has a legal responsibility for Trust policies and for ensuring that they are carried out effectively. They have a legal responsibility to ensure that the Trust complies with Employment Legislation.
- 4.2 The Trust Board Sub Committee with a responsibility for ratifying policies and protocols in relation to staff is the Strategic Workforce Group.
- 4.3 Directors and Heads of Service are responsible for ensuring compliance to the WTR within their areas of responsibility.

4.4 Manager and Team Leaders are responsible for:

- Ensuring that the Regulations outlined in this document are adhered to at all times and ensure their staffing rotas are WTR compliant.
- Ensuring staff are made aware of this policy and understand their responsibilities in relation to it
- Ensuring that the working hours of their staff are monitored to ensure that they are not in breach of the policy
- Keeping appropriate records pertaining to annual leave and bank holidays for their employees
- Ensuring that staff take their entitled rest period and breaks to reduce the risk of fatigue, loss of concentration and associated stress leading to poor patient care.

4.5 Responsibility of Staff

- To ensure they take appropriate rest breaks in agreement with their line manager and in line with this policy
- To inform their line manager in writing of any additional employment and the hours they work, including bank and agency work
- To make their manager aware if they believe that their working pattern is in breach of this policy
- Where a member of staff is uncertain as to the application of any aspect of the Regulations, they should contact Human Resources for further clarification

4.6 Human Resource Responsibilities

- To ensure this policy is kept up-to-date in accordance with current employment legislation
- To provide advice and guidance to managers and employees on the appropriate implementation of the Working Time Regulations.

5.0 Provisions of the Working Time Regulations

In summary the core provisions of the Working Time Regulations are as follows:

- Average 48 hour working week over a 17 week reference period
- 11 hours rest per 24 hours
- Rest breaks
- 8 hours maximum working time for night workers
- Health assessments for night workers
- Paid annual leave

5.1 Maximum Weekly Working Time

The Regulations provide that a worker's average working time, including overtime and time on call at the workplace (see definition) must not exceed 48 hours per week. To calculate average working time a "reference period" is

used. The reference period used by the Trust is 17 weeks over a rolling period.

The organisation will **NOT** require any employee to work more than an average of 48 hours per week, over the reference period. This does not mean that an employee may not be required to work over 48 hours in any one week so long as the average of 48 hours over the reference period is not exceeded except with *the employee's agreement*.

5.1.1 *Opting Out of the Maximum Working Time Limit*

A member of staff over the age of 18 may voluntarily choose to work more than the 48-hour average weekly limit. The agreement to opt out must be in writing. Any opt out agreement can be terminated subject to at least 7 days' notice on the appropriate form (see Appendix 3).

The Trust does not expect individuals to work more than 48-hour on average but is willing to increase this maximum to 56 hours average per week subject to the following conditions:

- a) That the member of staff signs a written request (see Appendix 1)
- b) That a risk assessment is undertaken prior to additional hours being worked.
- c) That the member of staff undertakes not to work so long that they may impair their efficiency or expose colleagues, patients, the public or property to risk
- d) That the member of staff undertakes to adhere to the rest breaks and annual leave provisions under the Working Time Regulations.
- e) That the member of staff will **not** work over a maximum average of 56 hours per week in total. This would include any assignment within the Trust and any employment outside the Trust.
- f) The opt out will cover all employment within the Trust and bank work.

Whether or not an agreement to opt out is in existence there is no guarantee of hours over and above the individuals contracted hours.

A copy of the agreement to opt out should be provided to the manager of any assignment held, by the member of staff. In the case of a bank assignment a copy should be sent to the Centralised Staffing Solutions department. A copy should be sent to Human Resources who will retain the information on a spreadsheet.

The Trust reserves the right to review the appropriateness of the agreement at any time. The agreement will be subject to cancellation if the member of staff:

- Fails to comply with the terms of the agreement
- Where the work in excess of 48 hours is or may be having a detrimental effect on the individual's health and/or attendance

- If performance deteriorates (this includes in the case of bank workers non-attendance at booked shifts where action will be taken in conjunction with the Bank policies)

5.1.2 *Secondary Employment where an opt out applies*

Employees working for more than one employer, hold more than one assignment in the Trust or who also undertake work through self-employment should still not exceed the 48-hour limit (or 56 if an opt-out has been agreed) with regards to their total average weekly working time. Secondary employment includes working on the bank or through an agency.

5.2 Entitlements to Rest Periods and Breaks

5.2.1 *In-Work Rest Breaks*

The legal entitlement is:

- an uninterrupted rest break of 20 minutes in one block where daily working time exceeds 6 hours, which must not be taken at the start or end of the shift
- Young workers are entitled to an uninterrupted rest break of 30 minutes when daily working time exceeds 4.5 hours.
- The rest break should be uninterrupted and the member of staff is entitled to spend it away from the workstation if there is one.

The Trust has agreed that all shifts in excess of 6 hours must include a minimum of 30 minutes unpaid break. In most cases this should be in one block to allow for a meal break but can be split in to a 20 minute and 10 minute break.

Any shifts of 12 hours or more have a minimum of 60 minutes unpaid break. This can either be in one block or split into smaller breaks throughout the shift. There should be at least one 20 minute break within the first six hours.

Members of staff are entitled to leave their workstation but there is no legal obligation on the Trust to allow staff to leave the workplace during their break or provide rest facilities for the employees to utilise during their break.

Breaks should **NOT** be taken at the start or end of the day, or stored up and taken on a cumulative basis at a later date.

There may be times when a manager determines that activities require the need for continuity of service and an employee is told not to take a rest break. In these circumstances:

- Where a member of staff has been unable to take a break, in line with the regulations, during their shift then they will be given the time back as Time of In Lieu (TOIL).
- In exceptional circumstances the member of staff will be paid for the break where other options have been explored and are deemed to be not suitable.
- Where the member of staff is the only person on shift of their level, e.g. a qualified Nurse on night duty, they will not qualify for TOIL or payment of the break unless they can evidence they have been prevented from taking a break in line with the regulations during that shift.

Managers should always plan for their staff to take appropriate rest breaks and if there is any difficulty in making adequate provision for these, they should seek advice from Human Resources. Where a department is repeatedly short-staffed and this is impacting on the provision of rest breaks this should be reported using the Trust's Procedures e.g. eIRF.

In circumstances where work is repetitive, continuous or requiring exceptional concentration, managers must ensure the provision of adequate rest breaks as an integral part of their duty to protect the health and safety of their staff. In such circumstances the advice of local occupational health services should be sought.

5.2.2 *Daily Rest – A break between working days*

Daily rest is an uninterrupted rest period of at least 11 consecutive hours in each 24 hour period. For young workers the daily rest period is 12 consecutive hours.

The majority of our staff will normally be able to take not less than 11 hours consecutive rest within each 24 hour period. However, this may not always be possible for staff involved in the continuity of care of patients, such as nurses and health care assistants. In some areas, it will be necessary for such staff to work a mixture of shifts within a week to provide for optimum levels of patient care and, whilst managers should make every effort to ensure that the majority of staff are able to have 11 hours rest between shifts, there may be occasions when compensatory rest will have to be given (see paragraph 5.2.4). It is not acceptable for staff to have less than 11 hours rest either side of a night shift.

5.2.3 *Weekly Rest Periods*

All staff should receive an uninterrupted weekly rest period of 35 hours (including 11 hours of daily rest) in each 7 day period for which they work. Where this is not possible they should receive equivalent rest over a 14 day period, either as one 70 hour period or two 35 hour periods.

Young Workers should be allocated two days consecutive rest in each 7-day Period.

When a shift worker changes shift, it may not be possible for them to take their full rest entitlement before starting the new pattern of work. The Regulations state that in these circumstances, daily and weekly rest entitlements do not apply.

Where a member of staff is required to work during a time that is supposed to be a rest period, they will be entitled to take an equivalent period of compensatory rest, (i.e. same number of hours) as soon as possible.

Where staff's activities involve the need for continuity of service as may be the case in relation to treatment or care being provided by a hospital the member of staff may be considered to fall within a 'special case' category, which can exempt them from the regulations regarding rest periods, however they would need to be given compensatory rest by careful management of working activity.

Managers should seek advice from Human Resources before considering their staff group as being a 'special case'.

5.2.4 *Compensatory Rest*

Compensatory rest should be given where a member of staff is required to work during time which is supposed to be rest time. The worker must be permitted to take an equivalent period of time as compensatory rest. The time taken as compensatory rest should be equal to the number of hours or minutes that the rest was interrupted by.

Compensatory rest should be built into normal working patterns. Most staff will have greater than 11 hours rest in each 24 hours and therefore it is likely that the compensatory rest can be taken within a 24 hour period. Compensatory rest should not be saved up; it should be taken within two weeks of the shift where the rest was accrued. Staff cannot be paid for compensatory rest.

For example: If an employee only received a 9 hour daily rest break on a Wednesday evening, there would be 2 hours compensatory rest to be taken at another time. On the Thursday they work 9 am to 5 pm, and the Friday they also work 9 am to 5 pm. This means that on the Thursday night the member of staff had 16 hours rest which is an additional 5 hours rest over and above the 11 hour requirement. Therefore the two hours compensatory rest will have been given at that time i.e. there is 5 hours compensatory rest built into the rota each night when the member of staff is not on-call.

5.3 **On Call**

Staff who are on-call, i.e. available to work if called upon, will be regarded as working from the time they are required to undertake any work related activity.

Travelling time will be included within this calculation. The working time will start when the member of staff receives the call and end at the time they return home following the call. Where staff are on-call but otherwise free to use the time as their own, this will not count towards working time. This method for calculating working time on-call payments will not be affected.

5.4 Night Work

Normal hours for night workers should not exceed an average of 8 hours in a 24 hour period. This average is usually calculated over a 17 week reference period. Night time is a period of at least seven hours which includes the period from midnight to 5 am. Normal hours are the hours regularly worked and/or fixed by their contract of employment. Overtime is not considered as normal hours and is not included in this calculation. The calculation is not affected by absence from work, as normal hours of work would remain the same, regardless of the hours worked.

All night workers are entitled to regular free and confidential health assessments. All staff are already monitored by the completion of a standard health questionnaire on appointment. This does not preclude the right of night workers to seek confidential advice from the Occupational Health Service at any time, if they feel that their circumstances have changed in such a way as to affect their ability to work at night. Managers may also refer night staff for a medical assessment where appropriate.

5.5 Annual Leave

The Regulations specify that all workers are entitled to 5.6 weeks paid leave (28 days if working a 5-day week). This includes bank holidays. part time workers are entitled to the same amount of holiday pro-rata. This is inclusive of bank holiday entitlement.

5.5.1 Trust Employees

The annual leave entitlement for staff on Agenda for Change Terms and Conditions and Terms and Conditions of Service for medical staff is more beneficial than the statutory minimum.

5.5.2 Bank Workers

Bank workers will accrue annual leave up to the maximum of 5.6 weeks paid leave including bank holidays.

5.6 Young Workers

Young workers (those over the school leaving age and under 18 years of age) may not ordinarily work more than 8 hours a day or 40 hours a week. There is no averaging or opt out available. The only exception is to maintain continuity of service, where there is no adult available to perform the task and the training needs of young people are not adversely affected.

5.7 Secondary Employment

For all staff employed by the organisation who also have employment with other employers, it is the duty of both the organisation and its staff to recognise that all working time with all employers are relevant for the purposes of this agreement.

New appointees are required to declare any secondary employment they may have which would take them over an average of 48 hours per week. The organisation may at any time, enquire of a member of staff if they have secondary employment

If during the course of their employment with the organisation, a member of staff commences employment with a secondary employer, the member of staff shall inform their manager in writing within 7 working days of the commencement of that employment (see Appendix 4). Staff should ensure that undertaking a secondary employment does not mean that they are working outside the Working Time Regulations.

6.0 Training needs

There are no training requirements identified within this policy.

7.0 Record Keeping

Records will be kept of the hours worked and working patterns of staff in the organisation by means of duty rosters. A record will also be kept of all staff who have opted to sign an individual agreement to work more than 48 hours per week.

Records of agreements to opt out will be kept within the HR Department. Copies of the agreement will be kept by managers.

Records will be kept in accordance with Trust records policies and recognised Trades Union/Professional Organisation and Health and Safety Executive representatives on request.

8.0 Monitoring Compliance and Effectiveness

Reference	Minimum Requirements	Process for Monitoring	Reporting to	Frequency
Opt Out Forms completed	Number of forms completed	HR report on number of opt outs in existence	Directors of Service	Yearly
Compliance with WTR where an opt out form applies	Hours worked	Review as part of appraisal process	Line Manager	Yearly
Compliance with WTR for staff not on eRostering	Rest Breaks, hours worked, night shifts	Monitoring via rotas, staff duty sheets	Line Manager	Ongoing

Compliance with WTR for staff on eRostering	Rest Breaks, hours worked, night shifts	Managers will be alerted about non-compliance when rostering. Reports can be run on a regular basis by Managers	Line Manager	Ongoing
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9.0 Standards/Performance Indicators

Target/Standards	Key Performance Indicator
Care Quality Commission registration standards (outcome 12) <i>Staffing</i> (21) of the Health & Social Care Act (2008) (Regulated Activities Regulations 2010 CQC essential standards)	That the trust maintains compliance with CQC registration standards, this policy supports outcome standards 12

10.0 References and Bibliography:

The policy was drafted with reference to the following:

- 10.1 Working Time Regulations 1998
- 10.2 <https://www.gov.uk/browse/employing-people/contracts>



Leicestershire Partnership NHS Trust

WORKING TIME REGULATIONS OPT OUT AGREEMENT

Title		Surname		Forename	
Directorate			Department		
Post			Assignment Number(s) Please quote all assignment numbers held		
Band			I am 18 years of age or over	Yes/No	
Address					

Please ensure all boxes are completed as failing to do so may delay recognition of your opt out

This agreement is drawn up under the Working Time Regulations, and allows you to enter into agreement with Leicestershire Partnership NHS Trust to opt out from the 48 hour average weekly working limit

1. I agree that the 48 hour average weekly working limit, specified in the Working Time Regulations 1998, shall not apply in my case.
2. I understand that this agreement will apply with effect from
3. Notwithstanding my agreement to opt out from this limit, I am fully aware that I have a responsibility not to work hours so long that they may impair my efficiency or expose my colleagues, patients, the public or property to risk.
4. In signing this agreement I confirm that I can work a maximum average of 56 hours per week in the sum of all assignment in the Trust.
5. In opting-out of 48 hours working limit I confirm I will adhere to the rest breaks and annual leave provisions under the Working Time Regulations including the limits on night working.

6. I am aware that the Trust can bring this agreement to an end with a minimum of 7 working days' notice and I agree to give not less than 7 working days' notice of my intention to end this agreement.
7. I agree that I have entered into this agreement voluntarily and understand I am under no obligation to sign this agreement and that it is illegal for me to be subject to any detriment if I decline to sign
8. I am aware that there is no guarantee of work beyond my substantive hours.

Signature Date

This should be discussed with your manager who should be given a copy. The Manager will undertake a risk assessment before the opt-out takes effect. This will be noted below.

Where you hold another assignment (for example a Bank assignment) a copy of the form should be sent to the manager including details of the risk assessment.

A copy should also be sent to Employment Services at the following address:

Employment Services Team
 Leicestershire Partnership NHS Trust
 Riverside House
 Bridge Park Plaza
 Bridge Park Road
 Leicester
 LE4 8PQ

For Completion by Manager

A risk assessment was carried out on

The opt-out agreement can commence on.....

Name Signed

Date.....

LETTER TO CONFIRM THE APPLICATION OF THE OPT OUT AGREEMENT

(Date)

(Name
Address)

Dear (Name)

I am in receipt of your agreement to opt out of the 48 hour average weekly working and to limit your average working hours to 56 per week. This has now been recorded and the opt out will apply from (date on form).

May I remind you that this opt out applies to the average weekly working only. You cannot opt out of the rest breaks provisions of the Working Time Regulations or those relating to night time work. These are:

(a) In-Work Rest Breaks

Uninterrupted rest break of 20 minutes (unpaid) in one block where daily working time exceeds 6 hours which cannot be taken at the start or end of the shift. In its commitment to healthy working the Trust expects that staff working over 6 hours will take a rest break of at least 30 minutes (unpaid).

(b) Daily Rest

This is an uninterrupted rest period of at least 11 consecutive hours in each 24 hour period.

(c) Weekly Rest Periods

This is an uninterrupted rest period of 35 hours (including the 11 hour daily rest) or the equivalent rest over 2 weeks.

(d) Night Shifts

You should not exceed an average of 8 hours for each 24 hours over a 17 week reference period.

It is your responsibility to ensure that you work within these Regulations.

For further information on the Working Time Regulations please refer to the Working Time Regulations Policy or seek advice from Human Resources.

If you wish to end this opt out you should complete the appropriate form and return it to me.

As you are aware I may wish to review this working arrangement with you in accordance with the policy. If this becomes the case I will arrange to review it with you.

Yours sincerely,

(Manager of Substantive Post)

Copy together with Opt Out Form:

Centralised Staffing Solutions (where appropriate)

Other Manager (where appropriate)

Employment Services



Leicestershire Partnership
NHS Trust

WORKING TIME REGULATIONS CANCELLATION OF OPT OUT AGREEMENT

Title		Surname		Forename	
Directorate			Department		
Post			Assignment Number(s) Please quote all assignment numbers held		
Band			I am 18 years of age or over	Yes/No	

Please ensure all boxes are completed

I wish to withdraw my agreement to opt out of the 48 hour weekly average hours with effect from (Please give at least 7 working days' notice).

Signature Date

Copy to:

Manager(s)

Employment Services Team
Leicestershire Partnership NHS Trust
Riverside House
Bridge Park Plaza
Bridge Park Road
Leicester
LE4 8PQ



Leicestershire Partnership NHS Trust

WORKING TIME REGULATIONS NOTIFICATION OF SECONDARY EMPLOYMENT

Title		Surname		Forename	
Directorate			Department		
Post			Assignment Number(s) Please quote all assignment numbers held		
Band					

Please ensure all boxes are completed

I confirm that I have secondary employment with effect from
(date).....

The number of hours per week I will be working for the secondary employer is
.....

I confirm that the additional hours are still compliant with the Working Time
Regulations and I will not work more than an average of 48 hours per week or 56
hours per week where an opt out is in place.

Signed Date.....

To be given to your line manager.



Leicestershire Partnership NHS Trust

Calculation of Average Working Time

The calculation of average weekly working time is not affected by periods where a member of staff is absent due to annual leave, sick leave or maternity leave. If any of this leave occurs within a reference period then the equivalent number of days to the period should be added from the next reference period.

Staff using the eRostering system will have their average working hours calculated by the system. Where staff are likely to breach working time regulations this will be flagged on the system.

The average weekly hours are calculated by using the following equation:-

$$\frac{A}{B}$$

A = total number of hours worked during the reference period.

B = number of weeks in the reference period

Example calculation

A member of staff has a standard working week of 37.5 hours and does overtime or bank work of 11 hours a week for the first 16 weeks of the 17 week reference period. No leave is taken during the reference period.

The total hours worked is:-

17 weeks of 37.5 hours + 16 weeks of 11 hours overtime/bank work

Step 1 Calculate total number of hours worked during the reference period

$$17 \times 37.5 = 637.5$$

$$16 \times 11 = 176.0$$

$$\text{Total Number of hours worked in reference period} = 813.5$$

Step 2 Divide total number of hours worked by the reference period

$$813.5 / 17 = 47.85 \text{ average weekly hours}$$



Leicestershire Partnership NHS Trust

Calculation of Night Time Hours of Work

Staff using the eRostering system will have their average working hours calculated by the system. Where staff are likely to breach working time regulations this will be flagged on the system.

The average hours worked as night work is calculated by dividing the number of normal hours of working time in the reference period by the total number of days in the period, less the number of rest days to which the member of staff was entitled to under the Regulations, i.e. 24 hours for each seven days.

$$\frac{A}{B-C}$$

- A = the number of hours during the reference period which are normal working hours for that member of staff.
 B = the number of working days during the reference period.
 C = the number of hours of weekly rest to which the member of staff is entitled to under the Regulations (i.e. 24 hours for each seven days)

Example Calculation

A member of the night staff normally works 4 x 10 hour shifts each week. Therefore the total number of normal hours of work for a 17 week reference period would be:-

- Step 1 Calculate number of hours which are normal working hours for that member of staff. 17 weeks of 4 shifts of 10 hours.
 $17 \times (4 \times 10) = 680 \text{ hours} = A$
- Step 2 Calculate B. The number of working days during the 17 week reference period is 119.
- Step 3 Calculate C. The number of rest days is 17 (one 24 hour period in each week)
- Step 4 Calculate B – C. $119 - 17 = 102$
- Step 5 $A/B = 680 / 102 = 6.67$ (average hours in each 24 hour period)

The NHS Constitution

The NHS will provide a universal service for all based on clinical need, not ability to pay. The NHS will provide a comprehensive range of services

Shape its services around the needs and preferences of individual patients, their families and their carers	<input type="checkbox"/>
Respond to different needs of different sectors of the population	<input type="checkbox"/>
Work continuously to improve quality services and to minimise errors	<input type="checkbox"/>
Support and value its staff	X
Work together with others to ensure a seamless service for patients	<input type="checkbox"/>
Help keep people healthy and work to reduce health inequalities	X
Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance	<input type="checkbox"/>

Due Regard Screening Template

Section 1		
Name of activity/proposal	Working Time Regulations Policy	
Date Screening commenced	16 th November 2018	
Directorate / Service carrying out the assessment	Workforce and Organisational Development/Human Resources	
Name and role of person undertaking this Due Regard (Equality Analysis)	Kully Kaur, Senior HR Advisor	
Give an overview of the aims, objectives and purpose of the proposal:		
AIMS:		
<p>The aim of this policy is to provide information to management and staff on the provisions of the Working Times Regulations Act 1998 (WTR).</p> <p>Leicestershire Partnership NHS Trust is committed to the health and safety of its employees and recognises its obligations within the Regulations.</p> <p>Under the health and safety at work legislation there is a responsibility on all employers for the health, welfare and safety of their employees, as far as practicable. Management and control of working hours should be regarded as an integral element of promoting and managing the health and welfare of employees.</p>		
OBJECTIVES:		
<ul style="list-style-type: none"> - To ensure that the Regulations outlined in this document are adhered to at all times and ensure their staffing rotas are WTR compliant. - Ensuring that staff take their entitled rest period and breaks to reduce the risk of fatigue, loss of concentration and associated stress leading to poor patient care. - Ensure that the working hours of their staff are monitored to ensure that they are not in breach of the policy - For staff to inform their line manager in writing of any additional employment and the hours they work, including bank and agency work. 		
Section 2		
Protected Characteristic	Could the proposal have a positive impact – Yes	Could the proposal have a negative impact - No
Age	Yes, this policy and procedure is supportive of staff who fall within the remit of the Equality Act 2010 protected characteristics including disabled employees and makes adjustments to ensure the process is fair.	The policy will ensure managers adopt a consistent approach to dealing with applications made to opt out from the 48 hour average weekly working limit regardless of protected characteristics.
Disability		
Gender reassignment		
Marriage & Civil Partnership		
Pregnancy & Maternity		
Race		
Religion and Belief		
Sex		
Sexual Orientation		
Other equality groups?		
Section 3		
Does this activity propose major changes in terms of scale or significance for LPT? For example, is there a clear indication that, although the proposal is minor it is likely		

to have a major affect for people from an equality group/s? Please <u>tick</u> appropriate box below.			
Yes		No	
High risk: Complete a full EIA starting click here to proceed to Part B		Low risk: Go to Section 4.	✓
Section 4			
If this proposal is low risk please give evidence or justification for how you reached this decision:			
<p>All staff within LPT can apply to opt out of from the 48 hour average weekly working limit, on the condition that staff adhere to the rest breaks and annual leave provisions under the Working Time Regulations including the limits on night working.</p> <p>The Trust is also happy to associate itself with the new Workforce Race Equality Standard which came into effect from the 1st April 2015. Embedded within the standard are a number of workforce metrics which will help to identify and reduce any evidence of adverse impact towards black employees compared to other groups and actions will be agreed to address these accordingly.</p> <p>Equality monitoring has been incorporated in the overall policy compliance process which aims to provide assurance that any potential adverse impact on any protected group during the implementation of the policy and associated procedures are identified and removed at the earliest opportunity.</p>			
Signed by reviewer/assessor		Date	
<i>Sign off that this proposal is low risk and does not require a full Equality Analysis</i>			
Head of Service Signed	<i>Kathy D BA</i>	Date	8.1.2019

DATA PRIVACY IMPACT ASSESSMENT SCREENING

<p>Data Privacy impact assessment (DPIAs) are a tool which can help organisations identify the most effective way to comply with their data protection obligations and meet Individual's expectations of privacy.</p> <p>The following screening questions will help the Trust determine if there are any privacy issues associated with the implementation of the Policy. Answering 'yes' to any of these questions is an indication that a DPIA may be a useful exercise. An explanation for the answers will assist with the determination as to whether a full DPIA is required which will require senior management support, at this stage the Head of Data Privacy must be involved.</p>		
Name of Document:	Working Time Regulations Policy	
Completed by:	Kully Kaur	
Job title	Senior HR Advisor	Date 16th November 2018
Screening Questions	Yes / No	Explanatory Note
1. Will the process described in the document involve the collection of new information about individuals? This is information in excess of what is required to carry out the process described within the document.	No	
2. Will the process described in the document compel individuals to provide information about them? This is information in excess of what is required to carry out the process described within the document.	No	
3. Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information as part of the process described in this document?	No	
4. Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?	No	
5. Does the process outlined in this document involve the use of new technology which might be perceived as being privacy intrusive? For example, the use of biometrics.	No	
6. Will the process outlined in this document result in decisions being made or action taken against individuals in ways which can have a significant impact on them?	No	
7. As part of the process outlined in this document, is the information about individuals of a kind particularly likely to raise privacy concerns or expectations? For examples, health records, criminal records or other information that people would consider to be particularly private.	No	
8. Will the process require you to contact individuals in ways which they may find intrusive?	No	
<p>If the answer to any of these questions is 'Yes' please contact the Data Privacy Team via Lpt-dataprivacy@leicspart.secure.nhs.uk In this case, ratification of a procedural document will not take place until review by the Head of Data Privacy.</p>		
Data Privacy approval name:	Kully Kaur	
Date of approval	16th November 2018	

Acknowledgement: This is based on the work of Princess Alexandra Hospital NHS Trust