

Working Time Directive	
Operational Owners:	HR Services Manager
Executive Owner:	Director of HR
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Related documents:	Leave Policy, Staff Handbook

Approval History

Version	Reviewed by	Brief reason for review	Approved by	Date
1.0	HR Policy Group	To present Working Time Regulations and Directive in a clearer and easier to use format	HR Policy Group	June 2019
	JNCC Sub Group		JNCC Sub Group	January 2020
	Joint Negotiating & Consulting Committee		JNCC	March 2020
	Executive Board		EB	July 2020

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1. INTRODUCTION

1.1. PURPOSE

The Working Time Directive (WTD) is legislation intended to support the health and safety of workers, by setting minimum requirements for working hours, rest periods and annual leave. The Directive was enacted into UK law as the Working Time Regulations from 1 October 1998.

This policy and procedure aims to outline the main provisions of the Regulations and to provide further information on its implications for employees of the University.

This policy and procedure does not form part of any employee's contract of employment. It may be amended from time to time.

1.2. SCOPE

This policy applies to most categories of University staff, unless an exemption applies under Regulation 21 of the Working Time Regulations.

As per Section 5, Clause (e) of the Staff Handbook, the hours of duty for Professors, Readers, Senior Lecturers, Lecturers A and Lecturers B are not fixed and are considered to be those necessary to undertake teaching, research and administration duties, as arranged with the Faculty Executive Dean. These staff are therefore deemed to be exempt from the Working Time Regulations, except from the provision of annual leave.

The Regulations cover the following areas:

- maximum weekly working hours
- daily rest breaks/weekly rest periods
- paid holidays
- health assessments for night workers

Information regarding opting out of the 48-hour week can be found in the Policy Principles section (page 5) and Appendix C (page 11).

Time off work for annual leave is covered on Page 6 of this Policy and in more detail by the [Leave Policy](#) and [Staff Handbook](#).

1.3. DEFINITIONS

The following definitions, from the Working Time Regulations, are used in this policy:

Day – A period of 24 hours beginning at midnight.

Daily Rest – Adult workers are entitled to a rest period of not less than 11 consecutive hours in each 24-hour period during which they work for their employer. This is 12 hours for young workers except where periods of work are “split up over the day or are of short duration”.

A worker's employment contract may say they are entitled to more or different rights to breaks from work.

Employee - A worker who works under a University of Surrey employee contract

Employer – (in relation to a worker/employee) the person/organisation by whom the worker/employee is (or was) employed.

Excluded time/ days – Applies in those circumstances where working hours may be averaged over a given reference period (for the purposes of this policy this is the limitation of working no more than 48 hours averaged over a 17-week reference period). Excluded time are days during the reference period when the worker does not work, for reasons such as sick leave, maternity leave and annual leave.

Night Time - the hours between 11pm and 6am

Night Worker – A worker who normally works at least 3 hours of their working time during the night time (on the majority of days worked).

Reference period – normally a period of 17 weeks, over which average hours are calculated.

Rest Break - Workers have the right to one uninterrupted 20-minute rest break during their working day, if they work more than 6 hours. A worker's employment contract may say they are entitled to more or different rights to breaks from work.

Week – a period of 7 days starting after midnight between Sunday and Monday.

Weekly rest – Workers have the right to:

- An uninterrupted rest period of not less than 24 hours, without any work, each week;
- Two uninterrupted rest periods of not less than 24 hours in each 14-day period or one uninterrupted rest period of not less than 48 hours without any work in each 14-day period

A worker's employment contract may say they are entitled to more or different rights to breaks from work.

Worker – an individual who has entered into or works under a contract of employment or any contract, where the individual undertakes to do or perform, personally, any work or services for an employer.

Working time – this is classed as:

- a) Any time a worker is working at his employer's disposal and carrying out their activity or duties;
- b) Any period during which they are receiving relevant training;
- c) Any additional period which is treated as working time, under a relevant agreement. For example, when a worker is on-call but not working, would not count as working time. A lunch break when not working would not count as working time.

Young Worker – any worker who is over compulsory school age but has not yet attained the age of 18.

2. POLICY PRINCIPLES

2.1. MAXIMUM WEEKLY HOURS

A worker's working time, including overtime, should not exceed an average of 48 hours for each 7-day period over a rolling 17-week period.

An employer should take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that this limit is complied with. The expectation of the University of Surrey is that workers will not exceed a working hours total of 1FTE. It is therefore the individual's responsibility, if they expect their total hours to exceed 1FTE to notify their Manager and University HR Team.

Please note that time spent in other jobs (including those outside the University) also count towards the 48-hour weekly limit.

If an employee has any additional jobs outside the University, they must declare these jobs to their manager and inform them of the number of hours they are required to work per week. It is the member of staff's responsibility to ensure they remain compliant with the regulations, particularly those around the maximum working week, daily and weekly rest periods. If the member of staff's overall working arrangements do not comply with the regulations, the working arrangements of their other job(s) must be changed in order to ensure overall compliance, or they will need to sign an opt-out agreement. (See also Page 5 below).

Any University worker with more than one role, including those held outside the University, is also expected to keep an accurate log of their working hours.

Those under 18 have separate legislation as they cannot work more than 40 hours per week.

Refer to Appendix A for the formula to calculate working hours (page 9).

2.1.1. Agreement to Exclude the maximum ("Individual choice")

A worker can agree with their employer, in writing, to "opt-out" of the 48-hour working week. By doing so they agree to work more than 48 hours a week.

With regard to other employment, as per Clause 5 (f) in the Staff Handbook, staff are required to inform their HR Representative of any employment that they plan to or currently undertake with another employer.

If the total aggregated time spent in employment exceeds 48 hours a week, staff will be asked to consider signing an individual "opt-out" agreement. If they do not wish to do so they will be asked to consider reducing their hours to comply with the 48-hour limit.

The agreement can either relate to a specified period or apply indefinitely and can be terminated by the worker by giving not less than 3 months' notice.

For those that opt-out the employer must maintain up-to-date written records which;

- i. Identify each of the workers who are employed and who have opted-out;
- ii. Set out any terms on which the worker agreed the limit would not apply;
- iii. Specify the number of hours worked for the employer during each reference period, since the agreement came in to effect;
- iv. Must be kept for 2 years and be available on demand to the Health and Safety Executive (HSE) or any other authority which enforces these regulations.

2.2. REST

There are three types of rest referred to in the Regulations:

b) Daily rest

Adult workers are entitled to a rest period of not less than 11 consecutive hours in each 24-hour period during which they work for their employer. For young workers (aged up to 18) this increases to 12 hours, except where periods of work are “split up over the day or are of short duration”.

c) Weekly rest

Workers have the right to:

- i) An uninterrupted rest period of not less than 24 hours without any work in each week 7-day period;
- ii) Two uninterrupted rest periods of not less than 24 hours in each 14-day period OR one uninterrupted rest period of not less than 48 hours without any work in each 14-day period.

d) Annual Leave

According to the Working Time Regulations, workers are entitled to 4 weeks of annual leave during the period of a year, pro-rated for part time workers. University of Surrey employees are entitled to a minimum of 25 days plus Bank Holidays and University Closure Days, pro-rated for part time employees. For further details on annual leave entitlements and calculations for part-time employees please refer to the Leave Policy and the Staff Handbook.

2.3. NIGHT WORK AND HEALTH ASSESSMENTS

- e) A night worker's normal hours of work in any reference period shall not exceed an average of 8 hours for each 24 hours.
- f) An employer should take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that the limit is complied with, in the case of each night worker employed by them
- g) A reference period of 17 successive weeks applies. Where a worker has worked for his employer for less than 17 weeks, the reference period in this case is the period that has elapsed since they started working for their employer.

Health Assessment of Night Workers

- a) An employer shall not assign a night worker to work during the night unless:
 - i. The employer has ensured that the worker will have the opportunity of a free health assessment before he takes up the assignment; or
 - ii. The worker had a health assessment before being assigned to night work on an earlier occasion and the employer has no reason to believe that the assessment is no longer valid
- b) The employer shall ensure that each night worker employed by them has the opportunity of a free health assessment at regular intervals.
- c) An employer will keep records to show that these regulations are being complied with in the case of each worker employed by him and retain these records for 2 years from the date on which they were made.

Appendix B (page 10) provides a calculation of a night worker's average hours of work for each 24 hours during a reference period.

3. GOVERNANCE PLAN

3.1 Review and Update

Review every 3 years with regular checks of legislation changes to ensure policy is up-to-date and accurate.

Minor changes (change of role title, amendment of wording that does not change meaning of the Policy to be completed by the Operational Owner with approval from the HR policy Group.

Major changes to be reviewed by the Operational Owner, HR Policy Group, JNCC (Joint Negotiating Consultative Committee) and if required, submitted to Executive Board, for final approval.

3.2 Stakeholder Statements

This version of the Policy has been reviewed by the HR Policy Group and the Joint Negotiation and Consulting Committee

Equality: Consideration is given to the protected characteristics of all people groups identified in the Equality Act 2010. The protected characteristics are gender, age, race,

disability, sexual orientation, religion/belief, pregnancy and maternity, and marriage/civil partnership.

Health & Safety: This Policy forms part of the overarching statement on health and safety by setting out the Working Time Directive (WTD) legislation to support the health and safety of workers.

4. APPENDICES

APPENDIX A

Calculation of a worker's average working time over each 7 day period in the reference period.

(A+B)/C

A = the aggregate number of hours comprised in the workers working time during the course of the reference period;

B = aggregate number of hours comprised in their working time during the course of the reference period;

C= Number of weeks of the reference period.

APPENDIX B

Calculation of a night worker's average normal hours of work for each 24 hour during a reference period.

$A / (B - C)$

A = is the number of hours during the reference period which are normal working hours for that worker;

B = is the number of days during the reference period;

C = is the total number of rest hours (during the reference period) for the worker divided by 24.

APPENDIX C

Opt Out Form

WORKING TIME REGULATIONS

EMPLOYEE DECLARATION – INDIVIDUAL AGREEMENT TO OPT-OUT OF THE 48 HOUR MAXIMUM WEEKLY WORKING TIME LIMIT UNDER THE WORKING TIME REGULATIONS 1998

I, the undersigned, understand that I can refuse to work beyond an average of 48 hours per week (when averaged over a 17 week period) but with this declaration I agree to work more than 48 hours per week from time to time, to meet the needs of the Faculty / Department.

This is without prejudice to the University's general duty to ensure my health, safety and welfare at work.

I understand that I can withdraw from this agreement by giving 3 months' notice in writing that I am no longer willing to work beyond a 48 hours (per week average, measured over a 17 week period).

For every week (Monday to Sunday) I am covered by this declaration I will keep an accurate record of the actual hours I work and will provide this information as required by the Dean of the Faculty / Head of Department / HR Team. I understand that such records must be kept for 2 years to provide an accurate record of my working hours and to comply with Working Time Regulations.

Please complete the details below using block capitals.

If you have more than one role at the University please include details of each post, using the continuation lines below:

Name:	
Job Title:	
Faculty:	
Staff Number:	
Unitemps?	Yes / No
I work on the following days:	Monday/ Tuesday / Wednesday / Thursday / Friday / Saturday / Sunday <i>(delete those not applicable).</i>
I work:	Days/Nights <i>(delete if not applicable)</i>
Signed:	Date:

A copy of the completed form should be sent to the Dean of the Faculty / Head of Department and Human Resources.

Additional Jobs at the University of Surrey (please only complete if you have more than one role here):

Additional Job 2:

Name:	
Job Title:	
Faculty:	
Staff Number:	
Unitemps?	Yes/No
I work on the following days:	Monday/ Tuesday / Wednesday / Thursday / Friday / Saturday / Sunday (delete those not applicable).
I work:	Days/Nights (delete if not applicable)
Signed:	Date:

A copy of the completed form should be sent to the Dean of the Faculty / Head of Department and Human Resources.

Additional Job 3

Name:	
Job Title:	
Faculty:	
Staff Number:	
Unitemps?	Yes/No
I work on the following days:	Monday/ Tuesday / Wednesday / Thursday / Friday / Saturday / Sunday (delete those not applicable).
I work:	Days/Nights (delete if not applicable)
Signed:	Date:

A copy of the completed form should be sent to the Dean of the Faculty / Head of Department and Human Resources.