

Public Board Meeting - 9th June 2004

Title of Report:

European Working Time Directive
(EWTD)
- Policy and Guidelines

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Recommendations :

The Board is asked to agree the
attached Policy and Guidelines in
order to ensure the PCT complies
with European legislation and meets
its targets set out in the IWL Action
Plan.

Summary of Report, Content and
Purpose:

The purpose of this document is to
provide managers and staff with
guidance in relation to the adherence
of the European Working Time
Directive, ensuring all staff are
protected from the risks of working
long hours which could affect their
health and safety and that of others.

View of the Professional Executive Committee:

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Resource Implications:

No additional resources implications

Outcome :

Compliance with Health and Safety Legislation

Impact on Health Inequalities:

N/A

Clinical Quality Implications:

N/A

Bolton Primary Care Trust

DRAFT

EUROPEAN WORKING TIME DIRECTIVE (EWTD) Policy and Guidelines

1 INTRODUCTION

The European Working Time Directive (EWTD) sets down minimum requirements in relation to working hours, rest periods, annual leave and working arrangements for night workers.

The Working Time Regulations (WTR) which came into effect on 1 October 1998 are an important addition to health and safety protection for workers.

The EWTD applies to all health and social care staff with the exception of doctors in training posts.

2. AIM AND SCOPE

The PCT believes that all workers should be protected from the risks of working long hours which could affect both their health and safety and that of others.

The purpose of this procedure is to set out how the provisions of the WTR are to be implemented and applied within the PCT.

3. WORKING TIME LIMIT

3.1 48 Hour Limit

No staff should work over an average of 48 hours per week, unless they agree to do so in writing.

3.2 Reference period

The period over which average working hours are to be calculated shall be a rolling period of 17 weeks.

If a worker has worked for less than 17 weeks the reference period is the period worked to that date.

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

The calculation of average working time shall not be affected by periods of annual leave, sickness absence or maternity leave. If any of this leave occurs within a reference period, than an equivalent number of days should be added.

EXAMPLE

The average weekly hours can be calculated by using the equation

$A + B$ divided by C

Where

A is the total number of hours during the reference period.

B is the total number of hours worked, immediately after the reference period during the number of days missed due to annual leave entitlement, sick leave and maternity leave.

C is the number of weeks in the reference period

Eg

1. A worker has a standard working week of 40 hours (8 hour a day)
2. Does 8 hours a week overtime for 12 of the 17 week period (8 x12)
3. Takes 8 days sick leave during the period.

Therefore:

15 weeks x 40 hours = 600 hours
2 days x 8 hours = 16 hours

12 weeks x 8 hours = 96 hours
= 712 hours

8 hours x 8 days sickness = 64 hours

712 + 64 divided by 17 = 45.64 (within 48 hour week)

4. DEFINITION OF WORKING TIME

Working time is defined as when a staff member is working at their activity or duties. For staff on-call away from their place of work working time only occurs whilst they are responding to a call. Staff who are requested to “sleep-in” at their place of work will be considered to be working for the purposes of working time.

5. STAFF WITH MORE THAN ONE EMPLOYER

Where staff have more than one job, it is their combined hours that should not exceed the weekly average of 48 hours. Individual members of staff have a responsibility to ensure that any work undertaken outside their main employment with the PCT does not adversely affect their ability to satisfactorily perform their work for the PCT and staff should therefore notify their line manager in writing in advance if their combined working hours will exceed 48 hours per week.

Those staff who work irregular hours shall confirm on their time sheets whether their total working hours will exceed the 48 hour average during the period.

Where this occurs the line manager shall review the allocation of work for the next period to ensure the limit is not exceeded over the full reference period (17 weeks).

If this cannot be ensured the member of staff shall be asked to agree in writing to exceed the weekly limit.

6. AGREEING TO WORK OVER THE 48 HOUR AVERAGE

In normal circumstances the PCT does not require any member of staff to work in excess of an average of 48 hours per week. However, there may be circumstances where an individual member of staff wishes to work more than this average, in which case they must agree in writing that the weekly limit does not apply.

The PCT through the line manager will need to be satisfied that the health and safety of the individual member of staff and the safe delivery of service will not be adversely affected when making such individual agreements.

7. RECORDS

Where staff have opted out of the 48 hour working week, it is the responsibility of each line manager to keep a record of the number of weekly hours worked by each member of staff and a copy of the individual's agreement to disapply the maximum weekly limit.

The HR department will maintain a record of those staff who agree to disapply the maximum weekly limit and a copy of the opt out agreement will be kept on the employee's personal file.

8. WORKING DURING NIGHT TIME

8.1 8 Hour limit

The normal hours of staff who regularly work during night time shall not exceed an average of 8 hours per 24 hour period.

8.2 Reference period

The period over which the normal hours are to be averaged shall be a rolling period of 17 weeks for PCT staff. The calculation shall be made using the formula given.

8.3 Definition of night time

Night is the period between 11.00pm and 6.00am.

This applies to those whose daily working time includes at least 3 hours during night time on the majority of occasions they work. They will be subject to those provisions relating to working during night time.

8.4 Health assessments

Those staff who regularly work during night time shall be entitled to a free health assessment to determine whether they are fit to carry out the night work to which they are assigned. A request for health assessment should be forwarded to your manager who will make the request to the occupational Health department.

If the occupational health doctor's advice is that a member of staff is suffering from health problems connected with the fact that they work during night-time, the PCT will, whenever possible and subject to service delivery, offer the option to transfer to suitable day work, with pay and conditions applicable to day work.

8.5 Records

It is the responsibility of each line manager to keep for 2 years a record of the working hours of those staff who regularly work during night time, including the occasions that they have worked at night.

The line manager will also maintain a record of those staff who have requested and been granted the opportunity for a free health assessment and keep this for 2 years.

9. REST PERIODS

9.1 Daily rest period

A member of staff shall be entitled to a rest period of at least 11 consecutive hours between each working day.

9.2 Weekly rest period

A member of staff shall be entitled to an uninterrupted rest period of at least 24 hours in each 7 day period, averaged over two weeks (each starting at midnight between Sunday and Monday). The weekly rest period is in addition to each daily rest period (i.e. one period of 35 hours consecutive rest per 7 day period).

9.3 Exceptions and compensatory rest

There will be occasions when the full entitlements to daily and weekly rest periods cannot practically be achieved, for instance:

- Where the member of staff changes shifts
- Where the member of staff works split shifts
- Where there is a need for continuity of care where staff work in direct contact with patients in “round the clock” services.
- Where staff have undertaken work during an on-call period which is preceded and/or following a period of duty.
- Where staff are required to work due to emergency or unforeseeable circumstances.

In the case of such exceptions applying, the member of staff shall be allowed to take equivalent periods of compensatory rest, e.g. if there are only 8 hours daily rest one day, to be allowed the remaining 3 hours on another day in addition to the 11 hours for that day. This should be taken within a reasonable period – 2 weeks for daily rest and 2 months for weekly rest.

9.4 In-work rest breaks

A member of staff shall be required to take an uninterrupted break of at least 20 minutes when working time is more than 6 hours.

It is recognised that in exceptional circumstances there are some service areas and occasions when the entitlement to an in-work rest break cannot be achieved, for instance:

- Where there is a need for continuity of care in areas where staff work in direct contact with patients
- Where staff are required to work due to emergency or unforeseeable circumstances.

In case of such exceptions applying the member of staff shall be allowed to take equivalent period of compensatory rest during another period of duty, usually within 2 weeks. This should be taken, either at the start or the end of the period of working time. Where it is not practical for such compensatory rest to be allocated, the line manager must ensure that the staff members health and safety is protected.

10. ANNUAL LEAVE

Entitlement to annual leave shall be in accordance with the relevant Whitley Council Conditions or PCT general conditions of employment, which in all cases are at least equivalent to the entitlements within working time regulations. The relevant Whitley or PCT conditions relating to the definition of the leave year, arrangements regarding over or undertaken leave entitlement on termination of employment, and carry over annual leave shall apply, except that carry over annual leave shall not be allowed if this results in a leave entitlement (annual leave and bank/public holidays combined) of less than 4 weeks in any leave year.

