

# The Working Time Regulations

## A Summary for GP Trainers and Clinical Supervisors

### 1. What are the Working Time Regulations?

The European Working Time Directive (EWTD) was enacted into UK law on 1 October 1998 as the Working Time Regulations. It is legislation that is intended to support the health and safety of workers by setting minimum requirements for working hours, rest periods and annual leave. The Government negotiated an extension of up to twelve years to prepare for full implementation for doctors in training – that extension ran out in 2009.

### 2. What are its main features?

The main points relevant to F2s and STs working in General Practice are:

- an average of 48 hours working time each week, measured over a reference period of 26 weeks for doctors;
- 11 hours continuous rest in 24 hours;
- 24 hours continuous rest in 7 days (or 48 hrs in 14 days);
- a 20 minute break in work periods of over 6 hours.

### 3. What's that about a "reference period"?

The working hours of doctors in trainings are averaged over six months, so the 48-hour limit applies to an average of the hours over that period.

This means that in some weeks a trainee may work more than 48 hours.

However, rest requirements must be met, for example 11 hours rest in every 24 hours.

To calculate the average weekly working time, add up the number of hours worked in the reference period and divide that figure by the number of weeks in the reference period.

### 4. What about in an emergency?

The Working Time Regulations (WTR) should not prevent employees meeting their professional responsibilities when they work the hours they need to during an emergency or pandemic. The regulations include the flexibility to cope with an emergency:

- the 48-hour week is averaged over a six-month period, so doctors can reduce hours at a later date;
- you must, however, still ensure that WTR rest breaks are adhered to (or that compensatory rest is offered in lieu).

### 5. Who needs to monitor all this?

Employers have a legal requirement to monitor the hours their doctors in training are working. For most GP trainees, of course, this means the practice/partnership.

### 6. Can trainees opt out?

Individuals can opt out of WTR requirement. However,

- they must not be coerced into opting out;
- it must be agreed in writing;
- they cannot opt out of WTR rest break or leave requirements;
- even if they do opt out, overall hours must not exceed 56 hours in a week across all their employments and any locum work that they do.

## 7. What if they do additional work as a locum?

As an employer, you are still required to take all reasonable steps to ensure that the Working Time Regulations are complied with (subject to any opt-out). This includes making reasonable enquiries of your trainees to find out whether they have other jobs:

- if your trainee works a combined total exceeding regulations, then you need to ask your trainee either to sign an opt-out or to reduce the hours that they work.
- if the relevant limit has been exceeded in a particular week, but the average working week does not exceed this limit over the 26-week period, there is no breach of the Working Time Regulations.

Your trainee should disclose to both employers that they are working for another employer. They risk being in breach of their contractual duty, as a result of working for two trusts:

- they work excessive hours;
- they have not disclosed this to either employer;
- they have not signed an opt-out form.

This could be a disciplinary matter.

## 8. What happens if my trainee's work is in breach of the WTR requirements?

The penalties for non-compliance include:

- Employment Tribunal proceedings;
- fines;
- employer imprisonment.

The next time you come up for re-approval as a trainer, you will be required to provide evidence that your practice complies with the WTR. This could be in the form of a practice policy (you could base it on this document) and an explanation as to how you monitor it.

## 9. Any particular pitfalls?

"They just do the same hours that I do"

- Because most of us are self-employed, traditionally we trainers expected our trainees to work similar hours to our own. While long hours may be fine for us, if it means that our trainees' hours don't comply with the Regulations then their hours are illegal. So, do ensure that their working hours comply with the Regulations.

"My practice manager deals with all of that"

- Then your PM needs to be aware that the WTR applies just as much to the GP trainee as to any other employee.

Out-of-hours

- If your trainee does an evening shift on a weekday, check that they aren't at risk of breaching the "11 hours continuous rest in 24 hours" bit of the Regulations. They may need to have time off the morning before or after.
- In that case, they would need to make up the missed surgery hours at another time. For instance, they could do "extended hours" surgeries on other days (evenings, Saturday mornings), or forgo an afternoon off.

"But aren't they paid to work 40 hours per week?"

- Yes, full-time GP STs are paid for working a 40-hour week, but they are also paid for 72 hours per year out-of-hours work.
- See [http://primarycare.severndeanery.org/training/gp\\_speciality\\_training/working\\_week](http://primarycare.severndeanery.org/training/gp_speciality_training/working_week)

Locuming

- Don't forget to check whether your trainee is doing any locums.

## 10. Where can I find out more?

See:

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_110100](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_110100)

Also:

<http://www.nhsemployers.org/PlanningYourWorkforce/MedicalWorkforce/EWTD/Pages/EWTD.aspx> Details

are on the FAQ page.

Written by: Michael Harris, Associate Postgraduate Dean, Severn School of Primary Care,  
Severn Deanery

Date: 14<sup>th</sup> January 2010