



WORKING TIME DIRECTIVE POLICY

BADGER GROUP
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Destroy All Previous Issues

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Author	Issue Date	Version	Document Ref	Approved By	Approval Date	Next Review	Page i
HR Department	Jan 2023	V3.5	HR-40	Exec	Dec 2022	Jan 2026	

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DOCUMENT CONTROL

Document Storage

Location: p:\ops team\central policies & procedures - development - word docs\hr - human resources policies & procedure\hr-40 working time directive policy v3.5.doc

Version Control Log (Only last 3 versions, earlier versions can be found in the appropriate archive directory for the document)

Version	Date	Author	Description of Changes
V3.2	Aug 2021	HR Department	Under review, no changes currently
V3.3	Mar 2022	A Shiels	Under review, no changes currently
V3.4	June 2022	HR Department	Under review, no changes currently
V3.5	Dec 2022	HR Dept	Reviewed – no change

Approval

Version	Name	Position	Signature	Approved Date
V1.1	Exec	Executive Team		June 2012
V2.0	Exec	Executive Team		Nov 2015
V3.0	Exec	Executive Team		March 2018

Glossary

Term	Description

1 BACKGROUND

The Working Time regulations came into force in the UK on 1 October 1998. The Regulations implement the EC Working Time Directive (93/104/EC) and the EC Young Workers Directive (94/33/EC).

The Regulations form a part of the Government's stated objective to 'create a flexible labour market underpinned by minimum health and safety standards'. The underlying philosophy of the Regulations is that employees' health must be protected from working excessive hours.

The definition of 'worker' covers those with a contract of employment plus a wider group who undertake work under other forms of contract e.g. bank and temporary workers, but does not cover the self-employed.

However, due to the nature of the work Badger requires all staff, including self employed doctors, to undertake in terms of patient care, individual responsibility for the number of hours worked and ensuring the delivery of a safe level of patient care is strongly stressed. Staff must take care of their own health when considering working additional hours, their duty of care to patients and the image of the organisation.

2 AIMS

One aim of the Directive is to tackle the problem of long working hours, this is to ensure that employees do not voluntarily work excessive hours, are not overworked and that they can balance their work and home lives.

3 OBLIGATIONS

The employee's contract of employment will place an obligation on the employee to declare any other employment. They will be asked to complete a form (appendix 1) with details of additional employment and provide evidence to verify other employer working hours (for example, last 3 months payslip). A copy will be kept on the employee's personal file and a copy will be sent to the manager. This information needs to be taken into account when monitoring hours worked by employees.

Managers must make staff aware that they are obliged to declare any other work they undertake outside Badger. Employees also have an obligation to inform the Badger HR Department of any changes regarding work undertaken outside Badger.

Should working patterns at other employers be amended, staff must inform Badger HR by completing a Declaration of Additional Employment (appendix 1) with evidence to verify any change in hours (for example, last 3 months payslips). On receipt of the completed form and evidence of change in working hours, HR will make any necessary adjustments to comply with the 48 hour limit.

Staff will be required to provide a Declaration of Employment annually to the Badger HR Department.

Under no circumstance must an employee be coerced to work over and above their contracted hours against their will.

4 WORKING TIME

This is defined as when a worker is "working at his/her employer's disposal and carrying out his/her duties". For the time to be "working time", three elements must be satisfied. This means that although an employee who is "on call" can be contractually paid for being "on call" for the purposes of the regulations, working time will not start until they receive a call to go to work.

Working Time therefore includes:

- training time

- annual leave
- sick leave
- agreed work at home
- travelling required as part of the job

What it does **not** include is:

- being "on call" but free to pursue own activities
- lunch breaks
- travelling to and from the usual place of work

5 THE 48 HOUR WEEK

An employee's average working week (calculated over a 17-week period) should not exceed 48 hours (including overtime).

Senior managers generally work longer hours, and they may opt out of the 48 hour week rule, but this must be given in writing, stating the reasons why and the terms on which they have opted out.

Badger also needs to be aware of any individual employee who holds a second job, as the total working hours do not apply to just one employer. Each employer is responsible for ensuring that they provide adequate rest breaks and that their employees do not work beyond the statutory limit.

6 EXCEPTIONS

Relaxation of the rules can apply to activities where continuity of service is essential, through derogations which have the effect of lessening the legal impact but which do not allow the law to be ignored. For example, although due to circumstances, the normal entitlements to rest may not be able to be applied for some staff i.e. emergency staff, the employer still has a duty to ensure that they do apply wherever possible.

7 REST BREAKS

Individuals cannot opt-out of the 48-hour limit and, cannot opt-out of the requirement to take rest-breaks. Individuals are entitled to:

- A minimum rest break of 20 minutes in the course of any working period that exceeds six hours;
- A minimum daily rest period of at least 11 consecutive hours in each 24-hour period during which they work for the employer; and
- An uninterrupted weekly rest period of at least 24 hours (this can be replaced by 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 in each 14-day period).

Where individuals are required to work a shift that exceeds 6 hours they will be allocated a break of a minimum of 20 minutes. This allocated break will be unpaid except where owing to business needs cover cannot be provided.

8 PAID BREAKS FOR DOCTORS AND DRIVERS

Self-employed doctors are not entitled to paid breaks.

Doctors and Drivers will be paid from the start of their shift to the time they finish their sessional duties. Any Doctor or Driver working a shift of more than six hours is expected to take a break as per the working time directive guidelines.

A break may only NOT be taken for reasons of a potential emergency, and when that occurs Doctors and Drivers are unable to claim for the time in addition to their shifts.

Doctors and Drivers have been deemed a special case in respect of the fact that they cannot necessarily go back to their base for a break due to the amount of time this would waste; and also that on an overnight shift there may be no facility suitable for them without entailing considerable driving. Therefore this situation is only valid for the home visiting team.

9 UNPAID BREAKS FOR OTHER STAFF MEMBERS

Staff are expected to take breaks in line with the Working Time Directive.

Staff working more than a six hour shift are entitled to a minimum of a 20 minute break (maximum 30 minutes). Where more than eight hours are worked an hour's break is recommended.

Please note that for sessions under six hours in length, short breaks for personal needs may be taken, but there are no compulsory breaks.

All breaks are to be taken in line with the needs of both staff and the service and break times should be agreed with the Supervisor or Line Manager before any break is taken. Each department will manage breaks so that the specific needs of their particular operation are addressed. Thus local arrangements will apply.

Any time taken over and above the minimum time stated should be made up to meet the hours agreed in individual contracts of employment.

10 ENFORCEMENT

The employer's obligations under the Working Time Regulations are enforceable by the Health and Safety Executive or local authority inspectors. No detriment must be imposed by the employer on the employee who has a complaint about working hours. The worker is automatically protected from unfair dismissal arising in connection with breaches of the regulations.

The limits i.e. the weekly working time and night work limits, other night work provisions and record keeping requirements in the regulations will be enforced by the health and safety authorities, i.e. the Health & Safety Executive and the Local Authorities.

The entitlements i.e. the daily and weekly rest periods, daily rest breaks and the paid annual leave will be enforced by Employment Tribunals.

Badger will identify, where possible, members of staff who have two jobs, either inside Badger or elsewhere. If the total hours worked aggregate more than 48 hours, it is considered an unacceptable health risk in the environment in which they work. This risk is to the staff themselves, the patients Badger serves, and the image of Badger as an organisation.

It is a condition of employment that staff declare any other work they undertake outside their employment with Badger. Should a member of staff be found not to have declared other work, disciplinary action may be taken.

11 ANNUAL LEAVE

Staff are entitled to a minimum of 5.6 weeks statutory paid leave each year (this figure may also be inclusive of bank holidays) pro rata for part time staff. For staff who have just started work with an employer, the regulation under the Working Time Directive whereby annual leave could only be taken after a 13 week qualifying period has been completed, has now been withdrawn. Staff may therefore request annual leave immediately on commencement of employment. There is no statutory entitlement to bank and public holidays.

The Directive says that statutory annual leave cannot be carried forward and that payment in lieu of annual leave is forbidden except on termination of employment. It is the line manager's responsibility to ensure staff take their correct entitlement to annual leave within the current leave year.

APPENDIX 1

DECLARATION OF ADDITIONAL EMPLOYMENT – HR-F-022

Badger seeks to implement the Working Time Directive and wishes to identify those areas that may not comply with the regulations. The information contained in the form below will **be treated in complete confidence**. Please complete this form and return to the Badger HR Department.

STAFF MEMBER NAME: _____

BADGER EMPLOYMENT DETAILS

If you hold more than one post within Badger please state post title and number of hours worked per week

Badger Postion 1	
Position	
No of Contracted Hours Per Week	
No of Average Bank Hours Per Week	
Badger Postion 2	
Position	
No of Contracted Hours Per Week	
No of Average Bank Hours Per Week	

ALTERNATIVE EMPLOYER DETAILS

If you have another post outside Badger, please complete the following information:

Other Employer Details	
Position	
No of Contracted Hours Per Week	
No of Average Bank Hours Per Week	

Please provide below your working pattern for your other employer

Mon	Tues	Weds	Thurs	Fri	Sat	Sun

NAME: _____ SIGNATURE: _____ DATE: _____

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NO OTHER POSITIONS OUTSIDE BADGER

If you have no other employment outside of Badger please sign below:

I declare that I have no other employment outside of Badger

NAME: _____ SIGNATURE: _____ DATE: _____

Please be aware that by signing this form you are confirming that the information provided is true and complete and that you understand that any false or omitted information could result in disciplinary action.

Should any of the above details change during the course of your employment with Badger you are obligated to notify Badger of such changes as soon as they happen.