

# CARDIFF COUNCIL

## CODE OF GUIDANCE

### WORKING TIME REGULATIONS

#### Purpose

The purpose of this guidance is to explain the requirements of The Working Time Regulations 1998 (as amended).

The Code of Guidance contains the following sections:

- 1.0 Introduction
- 2.0 Summary of the Regulations
- 3.0 Employees affected by the Regulations
- 4.0 Workforce Agreements
- 5.0 Working Time Limits
- 6.0 Night Work
- 7.0 Rest periods
- 8.0 In work rest breaks
- 9.0 Paid annual leave

#### **1.0 Introduction**

A motivated and alert workforce works more effectively. When people work too many hours accidents happen, mistakes are made, and nobody profits. The Working Time Regulations provide rights for workers ensuring that they do not have to work excessive hours, while allowing flexibility for workers and employers to make arrangements to optimise working hours. There are special arrangements for young workers, those above school leaving age but under 18.

#### **2.0 Summary of the Regulations**

- A limit of 48 hours a week on average that a worker can be required to work - though workers can choose to work more.
- A limit of 8 hours per day and a total of 40 hours per week for young workers.
- A limit of an average of 8 hours work in 24 which night workers can be required to work.
- A right for night workers to be offered free health assessments prior to starting work and at least annually thereafter.
- A right to 11 hours rest a day. (*12 hours for young workers*)
- A right to a day off each week. (*2 days for young workers*)
- A right to an in-work rest break if the working day is longer than 6 hours. (*4.5 hours for young workers*)
- The right to 24 days (working a five day week) paid leave (or pro rata) per year. [increasing to 28days/5 day week including bank holidays from the 1<sup>st</sup> April 2009]

### **3.0 Employees affected by the Regulations**

All employees of the County Council are affected by the Regulations. This includes trainees, works experience staff, and volunteer workers. The Regulations exclude only those persons who are self employed, or on a course run by Educational Institutions or training establishments.

Young workers are those above the school minimum leaving age (16 years old, or those who become 16 between mid July and the start of the school year in September) but less than 18 years old.

### **4.0 Workforce Agreements**

There are three types of agreement between employers and employees that allow for flexibility of working hours.

- Collective agreements between an independent Trade Union and the Council.
- 'Workforce agreements', where a group of workers sharing a workplace or function may elect a representative to negotiate with the Council. (This would apply only where terms and conditions of employment are not made by collective agreement).
- Relevant agreements – any agreement in writing that is legally binding. An individual may ask or agree to vary working hours, which will become part of their contract, or variations to contracts and terms and conditions of groups of people may be made as above.

A worker's entitlement to the limit on working time is protected, and individuals must not suffer discrimination against them for not agreeing to vary working hours, breaks or leave entitlement.

### **5.0 Working Time Limits**

The Council is required to take all reasonable steps to ensure that workers do not work more than an average of 48 hours a week over a seventeen week period. This averaging period may be extended under certain circumstances.

Working time is considered to be when a worker is

- i working,
- ii at his/her employer's disposal and
- iii carrying out his/her activity or duties'.

All three elements must be met for 'working time' to be accrued.

A worker 'on call' therefore is not included as 'working time' unless required to stay on work premises during this time for the purpose of these Regulations. Lunch breaks are not included unless it is a 'working lunch'. Travel time to and from work would similarly not be counted, though travelling as part of the job would. Work at home will only count as working time where all three elements of the definition above are met.

The Council is required to take all reasonable steps to ensure that an employee is not working more than 48 hours, including asking if the employee has employment elsewhere. If an employee has another job, s/he may wish to put his agreement in writing that the working time limit may be exceeded, or the Council must consider restricting working hours to reduce total hours worked to 48.

## **6.0 Night Work**

A night worker is any employee whose daily working hours includes at least three hours of night time. 'Night time' is deemed to be a period of at least seven hours, which includes the period midnight to 5am. The Council is required to take all reasonable steps to ensure that night workers do not exceed an average of 8 hours for each 24 hours over a 17-week period. Where the work involves special hazards or heavy mental or physical strain, there is a limit of 8 hours in 24 at all times.

Young workers are not allowed to work between 12am and 4 am, while work between 10. pm and 12. am, and 4am and 6 am is restricted to certain types of work or industries, for example newspaper deliveries and bakery work.

Some medical conditions can be aggravated by night work, for example:

- Diabetes, particularly when controlled by injection,
- Some heart and circulatory disorders where physical stamina is affected
- Stomach and intestinal disorders, such as ulcers, where the timing of meals is important.
- Medical conditions affecting sleep
- Some chronic chest disorders where night time symptoms may be particularly troublesome
- Other medical conditions requiring regular medication on a strict timetable.

The Council must offer to undertake a free health assessment of any worker required to work at night, prior to undertaking night work and annually thereafter.

The health assessment is in two stages. The initial assessment is a questionnaire (4.C.222) which is given to staff by their Manager and is to be returned to the Occupational Health Service, Bessemer Close, Leckwith, Cardiff CF11 8XH . The form will be used by the Occupational Health Service, with the job description, to assess any increased risk to health, and employees may be asked to attend the Occupational Health Service for a further physical examination.

## **7.0 Rest Periods**

A worker is entitled to a daily rest period of 11 consecutive hours between each working day (*12 hours for young workers*). In addition, each worker is entitled to a weekly rest period of 24 hours in each seven days period (this may be averaged over two weeks). The daily and weekly rest periods should be taken consecutively. These requirements may be varied with shift patterns. *For young workers, the weekly entitlement is for 2 days rest period in each*

*week (either as 48 hours, or 2 X 24 hours) that cannot be averaged over two weeks.*

### **8.0 In Work Rest Breaks**

In general, a worker is entitled to an unpaid uninterrupted break of 20 minutes when daily working time is more than six hours. *(For adolescents 30 minutes when daily working time is more than 4.5 hours.)*

It should be a break in working time, and should not be taken at the start or the end of the working day.

Where a pattern of work involves uninterruptible or monotonous work, or when working with display screen equipment puts the health and safety of the worker at risk, then regular more frequent rest breaks may be required.

There are situations where it is not possible for the rest breaks to be taken **at a regular time**, for example:

- Where the pattern or location of duties make it impractical for breaks to be taken
- When a worker is engaged in security or surveillance duties where there is a round the clock presence is needed to protect property or persons
- Where a worker's activities involve the need for continuity of service or production – for example, residential homes or refuse collection.
- Where activities are affected by unusual or unforeseeable circumstances or exceptional events, the consequences of which could not have been avoided, or an accident or the imminent risk of an accident.

*None of the above should be allowed to restrict the rest breaks for young workers.*

### **9.0 Paid Annual Leave**

County Council employees are entitled to at least the 4 weeks paid annual leave (pro rata) that is specified by the Regulations.

**This information is a general overview of the Regulations for health and safety purposes only. Further information is available from People and Organisational Development.**

### **Further Information**

The Working Time Regulations 1998

The Working Time (Amendment ) Regulations 2002

The Working Time (Amendment) Regulations 2003