

POLICY STATEMENT

Fife Council is committed to adopting the basic provisions expressed in the Working Time Regulations 1998 and, given the Health and Safety issues associated with these, intends to restrict the use of the flexibilities, modifications and exemptions allowed by the Regulations, except where there is likely to be an immediate and significant degeneration in service provision or individual employee earnings.

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The aim of the policy is to comply with the basic provisions (ie without the use of flexibilities, modifications and exemptions) of the Working Time Regulations which have been drafted with a view to reducing the health and safety risks associated with excessive and 'unnatural' hours of work.

KEY POINTS

The Working Time Regulations give workers, with certain exceptions and modifications, the right to:-

- a maximum average of 48 hours per week, including overtime.
- a minimum daily rest period of 11 consecutive hours between each working day.
- an uninterrupted rest period of 24 hours in each 7 day period, averaged over 14 days (ie 2 separate 24 hour breaks or 1 48 hour break).
- a minimum 20 minute in-work rest break where the daily working time exceeds 6 hours.
- a maximum average of 8 'normal' hours of night work per 24 hour period.
- a free health assessment before, and at regular intervals after, commencing night work.
- a right to transfer from night to day work, where possible, if health problems related to night work arise.
- a minimum three weeks paid annual holiday (rising gradually to four weeks for leave years commencing after 23 November 1999).

Some special provisions apply to adolescent workers - workers who are over the minimum school leaving age but under 18 years of age.

Fife Council is required to keep records which will demonstrate Regulation compliance with regard to:-

- a) the 48 hour week
- b) night working limits
- c) health assessments for night workers

and such requirement falls to all Heads of Service / Service Managers.

FLEXIBILITIES, MODIFICATIONS AND EXEMPTIONS

The Regulations allow a number of flexibilities, modifications and exemptions in the application of the provisions. The most relevant of these for Fife Council include:

1 Employees engaged in

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- a) security and surveillance activities (eg Night Watchpersons)
- b) residential establishments (eg care homes)
- c) situations where there are foreseeable surges of activity (eg winter maintenance)
- d) unusual/unforeseeable circumstances or exceptional events where consequences could not be avoided (eg Emergency Planning co-ordinated activities) and
- e) in relation to accidents or the imminent risk of accidents

The above situations apply in relation to the working hours, night work and rest period provisions of the Regulations.

2 Individual choice by employees to work more than 48 hours where there is an option to do so (ie where management require this and there is an agreement with the trade unions to breach the 48 hour limit).

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3 As well as in 1 above in relation to daily/weekly rest periods, there are possible exemptions for shift workers. If a shift worker changes shift, it may not be possible for them to take their full rest entitlements before starting the new pattern of work. In such a case, the entitlement to daily and weekly rest does not apply. The entitlements do not apply also where an employee's work is split up over the day and so precludes taking 11 hours' continuous rest, for example school cleaners who work morning and evenings each day.

Compensatory rest has to be provided in these situations, however, which would comprise an equivalent period of compensatory rest to be taken within a reasonable time from when the entitlement was due. This would usually be within 2 weeks for daily rest and 2 months for weekly rest.

- 4 . Collective agreements may be struck with the trade unions in terms of:
- a) the 48 hour limit (ie extending the reference period for the calculation of average weekly working time to up to 52 weeks
 - b) the night work limits being modified or excluded or the reference period extended
 - c) the rest periods and in-work rest breaks being modified or excluded

IMPLEMENTATION, MONITORING AND REVIEW

In seeking to implement the basic provisions contained in the Regulations, Heads of Services or their representatives, in conjunction with the Human Resources Service, will consult fully with staff and their trade union representatives with a view to minimising any Service disruption or personal hardship.

Where it is mutually agreed that any flexibility, modification or exemption allowed under the Regulations should be used to enable conditions other than those implied in the basic provisions to prevail, an appropriate collective agreement will be negotiated at the appropriate negotiation forum. Fife Council does not intend to enter into any "Individual Agreements" except in matters relating to the 48 hour week where Managers identify exceptional or insurmountable compliance problems with the Regulations or where an employees' other paid employment together with their current employment totals more than 48 hours per week.

The Human Resources Service will also assist Heads of Service, as necessary, to establish appropriate records for demonstrating particular areas of compliance as required by the Regulations.

Formal enforcement of the Regulations, with the exception of the Rest and Annual Leave Provisions which are matters for Employment Tribunals, is the responsibility of the Health and Safety Executive.

Joint monitoring and review of all arrangements, particularly of areas of work where exact compliance with the basic provisions (ie without the use of flexibilities, modifications or exemptions) is not being achieved, will be undertaken as a regular feature of the Joint Negotiation and Consultation Forum (JNCF).

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