

THE WORKING TIME REGULATIONS 1998

CORPORATE COLLECTIVE AGREEMENT

The London Borough of Croydon and the Staff Side have agreed to the provisions outlined below in connection with the obligations imposed by the Working Time Regulations 1998. This agreement is binding on all workers (excluding Teachers, Staff on Soulbury Scales, CETS Lecturers and Youth Workers) and will remain in force for no more than five years but may be revised sooner. Either side may ask for this Agreement to be reviewed and revised as necessary after six months of operation.

1. Reference Period

- 1.1. To use consecutive rather than rolling 17 week reference periods for the 48-hour maximum working week (Regulation 4) and the 8 hour maximum for night work provisions (Regulation 6). The Council will ensure that any system used for recording working hours will not disadvantage any group of workers.
- 1.2. To use a 26-week reference period for all caretaking staff across the Council.

2. Definition of Working Time

2.1 Working time in relation to a worker means:

- (a) any period during which s/he is working, at the employer's disposal and carrying out his/her activities or duties; and
- (b) any period during which s/he is receiving relevant training; and
- (c) any additional period as specified below:
 - work carried out at home following previous agreement with the manager;
 - participating in an agreed working lunch as part of their work;
 - travelling time between jobs/sites but not travelling time from home to work and back;

2.2 What is not working time?

- (a) time when a worker is "on call" or "standby" and the worker is free to pursue their own activities.
- (b) time when a worker is required to be at the place of work "on call", but is sleeping though available to work if necessary. This is not working time as the worker needs to be actually working and at the Council's disposal and carrying out his/her activities or duties.

3. Definition of Night Time

3.1 In relation to a worker, this is the period between 11.00p.m. and 6.00a.m.

4. Definition of Night Worker

4.1 A worker who:

- (a) works at least 3 hours of daily working time during night time as a normal course of his/her work.
- (b) works on rotating shifts covering a 24 hour period.

5. Weekly Rest

5.1 The 7-day period for averaging the weekly rest period will start on a Monday. For Security Staff on a six-week shift rota, this will be the first day worked in the weekly shift.

6. Annual Leave

6.1 Annual Leave Year

6.1.1 This will be from 1st April to 31st March for all staff as determined in this document other than for Protem staff for whom it will be the anniversary of their appointment date.

6.2 Minimum Notice Requirements

6.2.1 Employees and managers will strive to give as much notice as possible when applying for annual leave and when responding to or granting or turning down requests for annual leave. Both employees and managers will be flexible in requesting/approving leave so that both service needs and employee needs are met. It is expected that all requests for leave are made well in advance especially during periods of peak workload or school holidays, to avoid disappointment and to enable shifts and rotas to be planned. Employees should not book holidays without prior authorisation from their manager. It may not always be possible to agree to employee's requests for leave, due to service needs. In such cases, the reasons for refusal should be given.

6.2.2 While most leave should be planned well in advance, where this has not been possible, the following minimum notice requirements apply. However, the Council recognises that emergencies do occur from time to time and every consideration will be given to granting leave in these circumstances, subject to service needs.

<i>Minimum Notice by Employee</i>	<i>Minimum Notice by Manager to Refuse Leave</i>
Twice the period of leave	Equivalent to the period of leave.

6.3 Termination of Employment

- 6.3.1 If employment starts or ends part way through the leave year, annual leave will be in proportion to the number of completed months' service during the year. Deductions from final salary due on termination of employment will be made for any holidays taken in excess of entitlement. If the final salary is not sufficient, the difference will have to be reimbursed.
- 6.3.2 Employees are expected to take the annual leave entitlement before employment terminates. However, if they are prevented from doing so by pressures of work, they will be entitled to payment in lieu for any leave accrued but not taken, as at the date of termination.

(For all the other areas where a collective agreement is possible, the view is that the Regulations define this adequately).


----- (on behalf of The Council)


----- (on behalf of Unison)


----- (on behalf of GMB)


----- (on behalf of TGWU)

Signed by Elaine Anderton (Head of Personnel Services), Malcolm Campbell (Unison), Eileen Theaker (GMB) and Kevin Simmons (TGWU) during September 2001

End

WORKING TIME REGULATIONS

BRIEFING NOTE

1. SUMMARY

- 1.1. The Working Time Regulations became law in the UK on 1st October, 1998.
- 1.2. Its main provisions are as follows:-
 - A maximum working time of not more than 48 hours per week over a 17 week period. However, any individual may choose to agree to work more than the 48 hour weekly limit if they wish.
 - The normal hours of night workers should not exceed an average of 8 hours for each 24 hours, over a 17 week period.
 - A minimum of 11 hours' consecutive rest in any 24 hour period (12 hours for young workers).
 - A minimum of 24 hours' consecutive rest in any 7 day period (48 hours for young workers).
 - An entitlement to a 20 minute uninterrupted break during a working day of more than 6 hours (30 minutes for young workers).
 - All workers, including "casual" staff are now entitled to 4 weeks paid annual leave per annum.
- 1.3. These regulations apply to all employees and workers such as agency and freelance workers aged over 16. They do not apply to the self-employed. Young workers referred to are those aged 15 - 18.

2. CROYDON'S APPROACH

- 2.1. The Regulations have helped in focusing attention on the issue of long working hours. Increased work pressures, a long hours culture and difficulties in work organisation/time management are some of the main reasons why people work long hours. In the long term, it is neither in the Council's nor in employees' interests to work excessive hours, particularly from a health and safety point of view.
- 2.2. While the Regulations provide flexibility about some of the requirements, Croydon's approach as approved by Committee, is to regard the Regulations primarily as Health and Safety measures and hence, any flexibility will be used only where service or client needs make it necessary.
- 2.3. As managers, you should encourage staff to make use of the entitlements under these Regulations. Your efforts will be reinforced if you aim to set good examples yourselves.

- 2.4. In implementing the Working Time Regulations, the Council is seeking in particular, to reduce the working hours of staff who are working in excess of 48 hours per week regularly. There is some flexibility to obtain individual agreements for employees to work more than 48 hours but these would only apply only for a limited period of time and would be on an exceptional basis. In these instances, you should seek your Personnel Manager's advice. It is also possible to "opt out" of some of the other provisions (except for annual leave) where service needs makes this essential through collective agreements with the unions. Again, your Personnel Manager must be asked, as a formal written agreement will need to be prepared for staff to sign, though they are at liberty to change their mind at any time if they do so.

3. **48-HOUR LIMIT**

- 3.1. **Definition: working time is when a worker is working, at the Council's disposal and carrying out his/her activity/duties; includes "relevant training".**

- 3.2. Working time in relation to a worker also means:-

- time spent working at home following previous agreement with their manager;
- time spent participating in an agreed working lunch as part of their work;
- time spent travelling between jobs/sites (but not from home to the first location).
- time spent "on call" where the worker is restricted to his/her place of work.

- 3.3. Examples of time which is **not** defined as working time include:-

- time spent travelling from home to work and vice versa;
- time spent "sleeping in", as s/he is not actually working albeit at the employer's premises. However if s/he is required to interrupt their sleep and carry out duties, then time spent doing this counts as working time.
- time spent on "stand by". Working Time would begin once s/he has been called out to work.
- lunch breaks unless attending an agreed working/business lunch.

- 3.4. **Do any workers have average working hours of more than 48 per week over a period of 17 weeks? If yes:**

- you may be able to adapt working patterns to ensure that the 48-hour rule is met e.g. reviewing overtime arrangements to ensure they remain within limits
- you can seek an agreement with each affected individual to agree to work beyond the 48-hour week. (There is a standard format for this). However, people can choose not to work more than 48 hours and work patterns will need to be

accommodated accordingly. There should never be any element of coercion or pressure on staff to work more than 48 hours.

- Health and Safety Risk Assessment Principles must always apply in these cases.

3.5. **What if an employee has more than one job?**

3.5.1. Employees who already have more than one job, or wish to take up additional employment, whether with Croydon Council or not, are expected to inform their manager accordingly. They should be advised of the Health and Safety implications and where appropriate, sign an opt-out clause. When discussing/approving such requests, managers should ensure that departmental criteria for Health and Safety implications are discussed. The Council's Code of Conduct and other terms and conditions of employment already place an obligation for staff on SO1 and above to devote their whole time service to the Council and to do additional work only with the explicit consent of their Chief Officer.

3.5.2. For new employees a clause will be inserted into their contract.

3.6. **Record Keeping**

3.6.1. The Regulations require that a record is kept of those staff who have signed an opt out.

4. **NIGHT TIME AND NIGHT WORKERS**

- Night time is between 11.00 p.m. and 6.00 a.m.
- A night worker is someone who normally works at least three hours at night i.e three hours between 11.00 pm and 6.00 am.
- Night workers should not work more than eight hours per working day. This excludes voluntary overtime and should be averaged over the 17-week reference period. Managers of night workers who regularly work more than 8 hours per working day, should inform their Departmental Personnel Manager. Where the eight-hour average is regularly exceeded, consideration must be given to reducing the hours of work or applying exceptions or flexibilities under the Working Time Regulations where applicable.
- All night workers will be offered a free health assessment before being assigned to night work and regularly thereafter by the Occupational Health Section.
- The Occupational Health Section will carry out the assessments and you will need to supply them with a list of your night workers and their hours.
- Where the Council's Occupational Health Physician advises that a worker may not be "fit" to undertake night work, she/he should, if possible, be transferred to other suitable day work.
- Managers are responsible for keeping records for two years relating to night workers' hours. The Occupational Health Section will keep records of medical

assessments and where this has been offered but not taken up.

- For “hazardous night work” (of a physically/mentally onerous nature) records should be kept for two years to ensure that an 8 hour absolute limit is not exceeded.
- New and expectant mothers should be given special consideration.
- Special consideration should be given to young workers' suitability for night work, taking into account their physique, maturity and experience.

5. DAILY AND WEEKLY REST ENTITLEMENT

5.1. Workers are entitled to the following unpaid periods of rest:

- 11 hours consecutive rest in every 24 hour period*
- 24 hours in each 7 day period (or 48 hours in each 14 day period)^Ø

5.2. The above does not apply to split shift working or when shift workers are changing shifts and are unable to take their rest.

5.3. Managers should seek to avoid situations where workers are unable to take their daily and weekly rest entitlements. Where such occurrences are unavoidable (e.g. staff attending late evening meetings or staff whose rest is interrupted because of call out), equivalent compensatory rest must be given within a reasonable time. Compensatory rest is a period of the same length as the period of rest (or part of a period of rest) that the worker has missed.

6. REST BREAKS

6.1. Workers required to work more than six hours at a stretch are entitled to a rest break of 20 minutes. Key features are:

- The break should not be at the beginning or end of the day and should be away from the workplace.
- Breaks during the day are unpaid unless determined otherwise by local agreement or terms and conditions specific to the post. Staff on flexitime are already required to take a half hour minimum lunch break every day which is unpaid.
- Managers must provide the opportunity for a break, though staff are not obliged to take it. Staff should be encouraged to take breaks. (You will need to point out the health and safety considerations of staff not taking a break).
- For staff doing repetitive or monotonous work, (e.g. where word processing is a major part of the job) adequate rest breaks must be provided.

* 12 hours uninterrupted daily rest for young workers (under 18 years)

Ø 2 days weekly rest for young workers (under 18 years), without averaging over 2 weeks.

- A young worker (aged 15 to 18) required to work for more than four-and-a-half hours at a stretch is entitled to a rest break of 30 minutes.

7. **ANNUAL LEAVE**

- Croydon's current annual leave provision is more than the Regulations specify.
- All workers, including "casual staff" are entitled to 4 weeks paid annual leave per annum.
- The statutory annual leave entitlement may include paid public and bank holidays and other concessionary or extra statutory leave days.
- Employees and managers should strive to give as much notice as possible when applying for and when turning down requests for annual leave. In Croydon, certain minimum notice requirements apply where it has not been possible to plan the annual leave for any reason.

<i>Minimum Notice by Employee</i>	<i>Minimum Notice by Manager to Refuse Leave</i>
Twice the period of leave	Equivalent to the period of leave

- Neither the Working Time Regulations or the Collective Agreement with Staff Side alter the Council's existing arrangements for carrying over and banking annual leave.

8. **IMPLEMENTATION**

- 8.1. Managers will need to audit current working arrangements and practices to ensure that all these regulations are being complied with. Departmental Personnel Managers should be contacted about any groups of staff for whom an individual agreement may be required (because they work more than 48 hours on average). There will be some contractual changes affecting all staff, e.g. in terms of Annual Leave provisions and the recording of working time. Personnel Manager will be making arrangements to write to all employees.

End

EMPLOYMENT CONTRACT CLAUSES

DUAL/MULTIPLE EMPLOYMENT

The Council discourages staff to work more than 48 hours per week. If, in addition to this job, you already have another job(s) or wish to take up additional employment, whether with Croydon Council or not, you must inform your line manager at once. This is to enable the Council to meet its obligations under the Working Time Regulations 1998 and also take account of your health and safety. The Council has the right to refuse permission for staff wishing to undertake secondary employment. Such permission will not be unreasonably refused, but may be refused where there are concerns for the health and safety of staff, service users or members of the public.

Depending on your grade, the Council's Code of Conduct and other terms and conditions of employment may restrict your ability to undertake additional work.

RECORD KEEPING

You are required to keep a record of your hours of work through completing timesheets, flexitime reconciliation statements or other such monitoring arrangements as established by your department. You should consult your Manager if you are working more than 48 hours per week on average, over a 17 week period. This will enable the Council to monitor whether or not we are meeting our obligations under the Regulations.

ANNUAL LEAVE

1. Notice Requirements

Employees and Managers will strive to give as much notice as possible when applying for annual leave and when turning down requests for annual leave. Both employees and Managers will be flexible in requesting/approving leave so that both service needs and employee needs are met. It is expected that all requests for leave are made well in advance especially during periods of peak workloads, or school holidays, firstly to avoid disappointment and to enable shifts and rotas to be planned. Employees should not book holidays without prior authorisation of leave from their Manager. While most leave should be planned well in advance, where this has not been possible, the following minimum notice requirements apply. However, the Council recognises that emergencies do occur from time to time and every consideration will be given to granting leave in these circumstances, subject to service needs.

<i>Minimum Notice by Employee</i>	<i>Minimum Notice by Manager to Refuse Leave</i>
Twice the period of leave	Equivalent to the period of leave

2. Termination - recoupment/reimbursement

If your employment starts or ends part way through the holiday year, you are entitled to annual leave in proportion to the number of completed months service during the year. Deductions from final salary due to you on termination of employment will be made in respect of any holidays taken in excess of your entitlement. If your final salary is not sufficient, we will expect you to reimburse the difference.

Employees are expected to take the annual leave entitlement before employment terminates. However, if they are prevented from doing so by the pressures of work, they will be entitled to payment in lieu for any leave accrued but untaken as at the date of the termination.

End

INDIVIDUAL AGREEMENT TO WORK MORE THAN 48 HOURS

WORKING TIME REGULATIONS 1998

The Working Time Regulations came into force on 1st October 1998.

The Council may not permit an employee to work more than 48 hours on average per week (including overtime) unless the employee has previously agreed in writing that this provision does not apply to their employment.

It is a legal requirement that a record be kept of all employees who have signed an opt-out. It will be necessary for you to keep accurate records of your working hours each week.

You are not obliged to work longer than 48 hours per week and your right to refuse to do so will be respected, without prejudice by the Council.

I agree that I may work for more than an average of 48 hours a week. If I change my mind, I will give one month's notice in writing to end this agreement. However, in certain circumstances this period of notice may be reduced but not below one week.

Name:
(please print)

Department:

Signed:

Date: