

Breaks from Work Policy

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Consultation	HR Policy Group	Applicable to:	All staff All Sites
Equality, Diversity and Human Right Statement	The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This procedure should be implemented with due regard to this commitment.		
To be read in conjunction with Associated Documents:	<ul style="list-style-type: none"> • TOIL • Grievance • Capability • Sickness Absence • Bullying and Harassment • Internet and Email • Counter Fraud Policy and Response Plan 	Information Classification Label	<input type="checkbox"/> Unclassified
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Contents

1. Purpose 3

2. Scope..... 3

 2.1 Unpaid (rest) Breaks 3

 2.2 Comfort Breaks 4

3. Exceptions 5

4. Training..... 5

5. Relevant regulations, standards and references..... 5

6. Equality, diversity and human right statement 5

7. Legal requirements 6

 Appendix 1: Equality Impact Assessment 7

 Appendix 2: Roles and responsibilities 11

 Appendix 3: Break entitlement table 12

1. Purpose

The Trust acknowledges the importance of allowing staff to take reasonable breaks from their work during the working shift in order to ensure the health, safety and well-being of them and of patients.

This policy aims to ensure that managers have a clear understanding of the regulations provided by legislation and the national Agenda for Change Terms and Conditions handbook and that they are equipped to manage staff breaks from work consistently throughout the Trust within this context.

2. Scope

This policy applies to all staff on Agenda for Change Terms and Conditions of employment unless staff have arrangements stipulated elsewhere in their contracts of employment. Note however, the arrangements for protection covered by section 4.1.1. The terms of the policy will also apply to staff working on the Staff Bank and agency workers.

2.1 Unpaid (rest) Breaks

The unpaid break is sometimes referred to as a meal break, a rest break, lunch or a break.

The legal entitlement is:

- an uninterrupted rest break of 20 minutes in one block where daily working time exceeds 6 hours, which must not be taken at the start or end of the shift.
- Young workers (under 18 years of age) are entitled to an uninterrupted rest break of 30 minutes when daily working time exceeds 4.5 hours.
- Requirement to take a 24-hour break in 7 days, or a 48-hour break in 14 days.
- 11 hours rest between working days. An example would be if a shift finished at 8pm, staff should not start work again until 7am the next day. This is inclusive of any on call and between normal working hours a 12-hour break operates.

The rest break should be uninterrupted, and the member of staff is entitled to spend it away from the workstation if there is one.

The Trust has agreed that all shifts in excess of 6 hours must include a minimum of 30 minutes unpaid break. In most cases this should be in one block to allow for a meal break but can be split in to a 20 minute and 10-minute break.

Any long day (9.5 hours plus) or night shifts should have a minimum of 60 minutes unpaid break. This can either be in one block or split into smaller breaks throughout the shift. There should be at least one 20-minute break within the first six hours. Please refer to appendix 3 for further information.

Members of staff are entitled to leave their workstation, and are encouraged to for Health and Wellbeing purposes, but staff must ensure that a supervisor or manager knows where they can be contacted should they leave the workplace. Where clinical staff are unable to take breaks, they should follow the red flag escalation process where they can contact a bleep holder for support in line with the Safe Staffing Policy.

There are circumstances where staff would be required to return from their break if an incident/operational need arises, e.g., staff required in A&E.

Breaks should **NOT** be taken at the start or end of the day or stored up and taken on a cumulative basis at a later date. Best practice would be for the break to be taken in the middle of the shift wherever possible.

There may be times when a manager determines that activities require the need for continuity of service and an employee is told not to take a rest break. In these circumstances:

- Where a member of staff has been unable to take a break, in line with the regulations, during their shift then they will be given the time back as TOIL.
- In exceptional circumstances the member of staff will be paid for the break where other options have been explored and are deemed to be not suitable.
- Where the member of staff is the only person on shift of their level, in order to qualify for TOIL or payment of the break, staff must evidence they have been prevented from taking a break in line with the regulations during that shift and they will need to evidence that they have escalated this to the appropriate senior person.

However, the Trust is committed to ensuring that staff take the minimum rest breaks outlined above. It should be noted that there may be exceptional circumstances where staff have different rest breaks stipulated in their contracts of employment.

Managers should always plan for their staff to take appropriate rest breaks and if there is any difficulty in making adequate provision for these, they should escalate this appropriately to the next operational line manager or at the Safe Staffing group huddle where appropriate. Where a department is repeatedly short-staffed, and this is impacting on the provision of rest breaks this should be reported using the Trust's Procedures.

Rest breaks for night shifts and long days must not be less than 1 hour. Areas using the E-Roster system will have this time deducted automatically. Those areas not using the E-Roster system should deduct these hours manually for consistency. Actual working hours will therefore be calculated as start and finish times of the shift, minus any unpaid rest break.

2.1.1 If in exceptional circumstances a member of staff is unable to leave the building during their break period, this should be recorded separately as a paid break as it must be excluded from their contracted working hours.

2.2 Comfort Breaks

A comfort break (sometimes referred to as a tea break) is a less formal break which enables staff to have a drink or take a brief break from work. This break may therefore be disturbed if the needs of the service require this; in exceptional circumstances, it may not be possible to facilitate comfort breaks at all.

2.2.1 It is recognised that for most employees it will be beneficial to be able to have a drink and short break over their set unpaid rest break.

2.2.2 For some staff groups it will be possible to make a drink whilst at their place of work (for example, office staff) but for others, in clinical areas or away from their base, this will not be possible. For this latter group of staff, who due to the nature or place of work would not otherwise be able to have a drink whilst on duty, one or more concessionary breaks must not exceed fifteen minutes and need to be taken at times agreed by their local manager taking into account the immediate needs of the service.

2.2.3 Whilst there is no restriction on where this comfort break can be taken, staff need to be aware that they are still technically on duty during their break and may therefore be called upon to deal with any urgent work-related issues during this time. In exceptional cases, it may not be possible for comfort breaks to take place at all. Staff should ensure that a supervisor or manager knows where they can be contacted.

2.2.4 In accordance with the Trust Smoke Free Policy, staff should not use this comfort break time to smoke instead of having a drink.

2.2.5 Where staff are in need of extra rest breaks relating to their ongoing health, please refer to the Trust's Reasonable Adjustments Policy.

3. Exceptions

No exceptions.

4. Training

The Trust acknowledges the importance of awareness and skills training for managers. To ensure the effective implementation of these guidelines, Business Human Resources will provide appropriate support through a variety of means including informal Policy Briefings or Guidance Toolkits.

5. Relevant regulations, standards and references

- Employment Act 2002
- Trade Union and Labour Relations (Consolidation) Act 1992
- Data Protection Act 1998
- Computer Misuse Act 1990
- ACAS Statutory Code of Practice on Disciplinary and Grievance (2009)

6. Equality, diversity and human right statement

The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to

legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This SOP should be implemented with due regard to this commitment.

7. Legal requirements

This document meets legal and statutory requirements of the EU General Data Protection Regulation (EU 2016/679) and all subsequent and prevailing legislation. It is consistent with the requirements of the NHS Executive set out in Information Security Management: NHS Code of Practice (2007) and builds upon the general requirements published by NHS Digital/Connecting for Health (CfH).

Appendix 1: Equality Impact Assessment

Title	
Strategy/Policy/Standard Operating Procedure	
Service change (Inc. organisational change/QEP/ Business case/project)	
Completed by	
Date Completed	

Description *(provide a short overview of the principle aims/objectives of what is being proposed/changed/introduced and the impact of this to the organisation)*

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Who will be affected *(Staff, patients, visitors, wider community including numbers?)*

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The Equality Analysis template should be completed in the following circumstances:

- **Considering developing a new policy, strategy, function/service or project (Inc. organisational change/Business case/ QEP Scheme).**
- **Reviewing or changing an existing policy, strategy, function/service or project (Inc. organisational change/Business case/ QEP Scheme):**
 - If no or minor changes are made to any of the above and an EIA has already been completed then a further EIA is not required, and the EIA review date should be set at the date for the next policy review.
 - If no or minor changes are made to any of the above and an EIA has NOT previously been completed then a new EIA is required.
 - Where significant changes have been made that do affect the implementation or process then a new EIA is required.

Please note the results of this Equality Analysis will be published on the Trust website in accordance with the Equality Act 2010 duties for public sector organisations.

Section 1 should be completed to analyse whether any aspect of your paper/policy has any impact (positive, negative or neutral) on groups from any of the protected characteristics listed below.

When considering any potential impact, you should use available data to inform your analysis such as PALS/Complaints data, Patient or Staff satisfaction surveys, staff numbers and demographics, local consultations or direct engagement activity. You should also consult available published research to support your analysis.

Section 1 – Initial analysis

Equality Group	Any potential impact? Positive, negative or neutral	Evidence <i>(For any positive or negative impact please provide a short commentary on how you have reached this conclusion)</i>
Age <i>(Consider any benefits or opportunities to advance equality as well as barriers across age ranges. This can include safeguarding consent, care of the elderly and child welfare)</i>		
Disability <i>(Consider any benefits or opportunities to advance equality as well as impact on attitudinal, physical and social barriers)</i>		
Gender Reassignment <i>(Consider any benefits or opportunities to advance equality as well as any impact on transgender or transsexual people. This can include issues relating to privacy of data)</i>		
Marriage & Civil Partnership <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on same sex couples)</i>		
Pregnancy & Maternity <i>(Consider any benefits or opportunities to advance equality as well as impact on working arrangements, part time or flexible working)</i>		
Race <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on ethnic groups including language)</i>		
Religion or belief <i>(Consider any benefits or opportunities to advance equality as well as any barriers effecting people of different religions, belief or no belief)</i>		
Sex <i>(Consider any benefits or opportunities to advance equality as well as any barriers relating to men and women e.g.: same sex accommodation)</i>		
Sexual Orientation <i>(Consider any benefits or opportunities</i>		

<i>to advance equality as well as barriers affecting heterosexual people as well as Lesbian, Gay or Bisexual)</i>		
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If you have identified any **positive** or **neutral** impact then no further action is required, you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address.

If you have identified any **negative** impact you should consider whether you can make any changes immediately to minimise any risk. This should be clearly documented on your paper cover sheet/Project Initiation Documents/Business case/policy document detailing what the negative impact is and what changes have been or can be made.

If you have identified any negative impact that has a high risk of adversely affecting any groups defined as having a protected characteristic then please continue to section 2.

Section 2 – Full analysis

If you have identified that there are potentially detrimental effects on certain protected groups, you need to consult with staff, representative bodies, local interest groups and customers that belong to these groups to analyse the effect of this impact and how it can be negated or minimised. There may also be published information available which will help with your analysis.

<u>Is what you are proposing subject to the requirements of the Code of Practice on Consultation?</u>	Y/N
Is what you are proposing subject to the requirements of the Trust’s Workforce Change Policy?	Y/N
Who and how have you engaged to gather evidence to complete your full analysis? (List)	
What are the main outcomes of your engagement activity?	
What is your overall analysis based on your engagement activity?	

Section 3 – Action Plan

You should detail any actions arising from your full analysis in the following table: all actions should be added to the Risk Register for monitoring.

Action required	Lead name	Target date for completion	How will you measure outcomes

Following completion of the full analysis you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address.

Section 4 – Organisation Sign Off

Name and Designation	Signature	Date
Individual who reviewed the Analysis		
Chair of Board/Group approving/rejecting proposal		
Individual recording EA on central record		

Appendix 2: Roles and responsibilities

Role	Responsibility
<p>Director of Human Resources and Organisational Development</p>	<p>The Director of Human Resources and Organisational Development is responsible for ensuring that this policy is fully implemented and that there is a continuing commitment to the training of managers in the implementation of policies and procedures.</p>
<p>Managers</p>	<p>To apply the principles Ensure that staff are aware of and understand the policy. Ensure that the staff are updated with regard to any changes to this policy</p>
<p>Staff</p>	<p>All employees are required to comply with the working practices and policies within the Trust.</p>
<p>Business Human Resources</p>	<p>To promote the policy and give guidance and support to managers and staff. To monitor and review the implementation and operation of the policy.</p>

Appendix 3: Break entitlement table

Shift duration	Minimum Unpaid Break required.
5	0
6	0
6.5 +	30
9.5 Day shift ONLY	30-60
9.5+ Long days and Nights	60
12 + (all shift)	60