

HR42 - Working Time Directive Policy

Policy Reference:		HR42	
Effective date:	May 2024	Review date:	May 2027
Approved by P&PRG:	April 2024	Approved by BoM:	May 2024
Owner:	Michael Catlin	Job Title:	Head of People & OD
To be issued to:			
<input type="checkbox"/> Board of Management <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> ET/SLT <input type="checkbox"/> Head Office Managers <input type="checkbox"/> Head Office Staff <input type="checkbox"/> Finance <input type="checkbox"/> Housing <input type="checkbox"/> Asset <input type="checkbox"/> ICT		<input type="checkbox"/> OD <input type="checkbox"/> Compliance <input type="checkbox"/> All Care & Support <input type="checkbox"/> C&S Managers (RM, OM, CSM) <input type="checkbox"/> C&S Staff <input type="checkbox"/> Contractors <input type="checkbox"/> Agency Staff <input checked="" type="checkbox"/> Unite the Union <input type="checkbox"/> Employee Voices Group <input type="checkbox"/> Other:	
Method of Delivery:			
<input checked="" type="checkbox"/> LearnPro <input type="checkbox"/> Board Portal <input type="checkbox"/> Line Manager to Share (e.g. Agencies)		<input type="checkbox"/> Policy Owner to Notify (e.g. Contractors) <input type="checkbox"/> Other:	
Stakeholder Consultation Completed			
<input type="checkbox"/> Board of Management <input type="checkbox"/> All Staff <input type="checkbox"/> ET/SLT <input type="checkbox"/> Head Office Managers <input type="checkbox"/> Head Office Staff <input type="checkbox"/> Finance <input type="checkbox"/> Housing <input type="checkbox"/> Asset <input type="checkbox"/> ICT		<input checked="" type="checkbox"/> OD <input type="checkbox"/> Compliance <input type="checkbox"/> All Care & Support <input checked="" type="checkbox"/> C&S Managers (RM, OM, CSM) <input type="checkbox"/> C&S Staff <input type="checkbox"/> Contractors <input type="checkbox"/> Agency Staff <input checked="" type="checkbox"/> Unite the Union <input type="checkbox"/> Employee Voices Group <input type="checkbox"/> Other:	

Version Control

Date	Owner	Version	Reason for Change
Mar 2024	Michael Catlin	1	Cyclical Review

Summary of Changes

Section	Change
1.0	Updated to reflect current values.
4.0	Updated legislation in 'The Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023'. The Regulations contain significant changes to the way holiday is calculated and paid for part-year and irregular hours workers (see section 7 for updates).
7.2	Expanded on what is not included in calculating working time. There are a number of days which are not part of the calculation of the average working week, these are known as Excluded Days and include; Annual leave, Sickness Absence, Maternity, Paternity, Parental or Adoption leave, Jury Duty and Trade Union Duties.
7.3	Expanded on rest break situations to reflect current practice in care and support services where 24 hours of support is needed rest breaks should be agreed with the supported person. Staff should always ensure that they are able to respond to the supported person and should never leave the supported person's home or communal area unless stated otherwise.
7.5	Added wording for new legislation updates to the Working Time Regulations regarding Relief workers. The Government introduced changes including that Relief Support Workers (irregular hours workers) are legally entitled to the minimum amount of 5.6 weeks paid holiday entitlement per year; with the pay to be calculated according to the actual hours worked using the 12.07% accrual method.
7.7	Updated wording around opt out process as the HR team now send the opt out form with their contract and the Payroll team will monitor and save opt out forms.
7.8	Expanded record keeping process to reflect current practice where the Payroll team will monitor the average hours worked by employees when calculating how many hours an employee is working every week. Managers can also pull a report in the Ark Information Management System (AIMS) people planner.

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1.0 Arks Values

Arks values are true to the core purpose of the organisation and the services we deliver. They determine our behaviours towards one another and what we should expect in our relationships with one another. Working within the following values will guide and help us deliver our vision and mission of Ark being an organisation where everyone is equal:

Trust

We have confidence in our people to deliver excellent services and trust in them to do so. We will develop trusting and honest relationships and our customers will feel assured that they can rely on us to deliver.

Respect

We treat everyone fairly and we listen. We are respectful of each person with whom we come into contact and expect our people to respond professionally and treat others as they would wish to be treated.

Understanding

We will operate with empathy and compassion and approach each situation with an open mind. We will question and challenge to ensure we achieve the right outcomes for customers and our people.

Equality

We believe everyone is equal and expect our people to create positive experiences where everyone feels valued and included.

Integrity

We will do the right thing and take responsibility for our actions. We will work together to uphold the highest standards of behaviour and practice.

2.0 Purpose

Ark is committed to providing a safe and healthy working environment that reflects Ark values. This includes monitoring of the number of hours worked by employees.

The Working Time Regulations 1998 were introduced on the 1st of October 1998 and provide the minimum conditions relating to weekly working time, rest entitlements, annual leave and make special provision for working hours and health assessments for night workers. The regulations also implement provisions of the Young Workers Directive that relate to working time for adolescents between school leaving age and 18 years of age.

Ark recognises that it is important to ensure that the organisation complies with the requirements of the Working Time Regulations, by protecting the health and safety of employees from the risk of working excessive hours. It is important to Ark that all employees

are aware of and understand the Working Time Regulations and how they affect them personally.

3.0 Policy Statement

This policy informs Ark employees of their rights and responsibilities under Working Time Regulations.

4.0 Scope

This policy applies to all Ark employees including temporary and relief staff.

5.0 Legal/Regulatory Framework

The relevant legislation relating to working time directive is:

- Working Time Regulations 1998
- The Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023

6.0 Responsibilities

6.1 Board of Management

Ark's Board of Management is responsible for consideration and approval of this policy.

6.2 Executive Team

Ark's Executive Team is responsible for ensuring that this policy is reviewed in accordance with Ark's schedule for review of policies, or sooner if required.

6.3 Leadership Team

Ark's Leadership Team is responsible for review of the policy, and for ensuring that relevant measures are put in place in order to implement its requirements.

6.4 Managers

Ark Managers will be responsible for the effective implementation of this policy. They must also ensure that each member of their staff, through induction, supervision and e-learning, is made aware of this policy.

6.5 All Staff

All Ark employees are required to familiarise themselves with this policy and complete the sign off on e-learning.

7.0 Working Time Directive

7.1 Working Time

Working time is defined as the time in which the employee is carrying out their duties and is at the employer's disposal, any training undertaken by the employee which is relevant to their post or in preparation for promotion or transfer is also included in the calculation of working time.

The weekly working time for each employee should not exceed an average of 48 hours over a 17-week reference period. If an employee has secondary employment, they must make Ark aware. Please refer to process outlined in G11A Entitlements, Payments and Benefits – Declaration of Interests & Secondary Employment Procedure.

When outside of the workplace, time spent responding to telephone calls and work taken home at the request of the employer will be included in the calculation.

7.2 Calculating Working Time

The calculation for Working Time is the average of all hours worked during the 17-week rolling reference period. The calculation will include all hours worked for Ark including overtime.

Time spent on an employer's premises for a standard sleep-over counts as working time for the purpose of the working time regulations. Organisations such as Ark who provide essential 24-hour care are exempt from daily rest break requirements, although we still have to provide workers with "compensatory rest", which should be taken as soon as possible after a shift ends.

As shift patterns often work in clusters enabling multiple days off in a row, we comply with the regulations by allowing workers to take the compensatory rest period straight after the shift ends.

There are a number of days which are not part of the calculation of the average working week, these are known as Excluded Days:

- Annual leave
- Sickness Absence
- Maternity, Paternity, Parental or Adoption leave
- Jury Duty
- Trade Union Duties

7.3 Rest Breaks

After working for a period of 6 hours continuously all employees are entitled to a 20-minute break from work. However, in care and support services where 24 hours of support is needed rest breaks should be agreed with the supported person. Staff should always ensure that they are able to respond to the supported person and should never leave the supported person's home or communal area unless stated otherwise.

In addition, all employees are entitled to the following rest breaks:

- 11 hours of uninterrupted rest between shifts in any 24-hour period (a 24-hour period does not necessarily run from midnight to midnight)
- 24 hours of uninterrupted rest between shifts in any 7-day period (working week).

When these breaks cannot be taken, or the break is interrupted due to the needs of the service the remaining time off will be given at an alternative time. This is known as compensatory rest periods.

Night Workers are those employees who normally work at least 3 hours of their daily work between the hours of 11pm and 6.00am.

Night Workers must not work more than an average of 8 hours in each 24-hour period. Employees who wish to opt out need to complete an opt out form if they wish to be exempt from the Working Time Directive.

7.4 Compensatory Rest

There may be some circumstances where an employee is required to work during what would be their rest period, where this occurs, the employee may have to take a rest break later. This rest break is known as compensatory rest and should be the same length of time as the break or part of the break the employee has missed. Your Line Manager will explain how rest breaks work as part of your induction.

7.5 Relief Support Workers and Holiday Pay

On 1 January 2024, the Government introduced changes to the Working Time Regulations. As of 1 April 2024, Relief Support Workers (irregular hours workers) are legally entitled to the minimum amount of 5.6 weeks paid holiday entitlement per year; with the pay to be calculated according to the actual hours worked using the 12.07% accrual method.

Payments are included and calculated for; relief hours worked.

Payments will be for relief workers hours paid in arrears.

7.6 Enforcement

Where employees are not taking sufficient breaks, we will proactively encourage employees to take breaks, therefore we must ensure that workers can take their rest periods or breaks.

7.7 Opt Out

In normal circumstances Ark does not require employees to work in excess of an average of 48 hours per week. However, employees have the choice to 'opt out' of the Working Time Regulations. This allows the employee to exceed the average 48 hour working week.

If an employee chooses to opt out they will be asked to complete a Working Time Opt Out Declaration stating, they agree to opt out of the average 48 hour working week, see Appendix 1. Where an employee has chosen to opt out of the regulations the agreement will remain in force unless the employee or Ark terminates the agreement providing a minimum of 4 weeks in writing.

The opt out form will be given to the employee initially from the HR team along with their contract and the Payroll team will monitor and save opt out forms.

7.8 Record Keeping

Where an employee has entered into an opt out declaration there is no requirement to keep records of the working hours, however a list of all employees who have opted out will be retained by Ark and updated as necessary. The employee will be sent this as part of their contract pack and the Manager should ensure it is completed at the employee's induction.

For all other employees a record of the hours worked within the 17-week average reference period will be monitored by the Payroll team through annual leave reporting to ensure Ark are complying with the regulations. The Payroll team will monitor the average hours worked by employees when calculating how many hours an employee is working every week. The Payroll team will then flag any risks to managers. Managers can also pull a report in the Ark Information Management System (AIMS) people planner.

Records relating to the Working Time Regulation will be retained for a period of two years after which they will be securely destroyed.

8.0 Learning & Development Requirements

No learning & development requirements have been identified in relation to this policy.

9.0 Related Policies & Procedures

This policy should be read in conjunction with:

- HR 03 Annual Leave Policy
- HR 03a Annual Leave Procedure
- HR 12 Parental Leave
- HR 25 Flexible Working Policy
- HR 25a Flexible Working Procedure
- CS 21a Supporting People on Holiday Procedure
- G11A Entitlements, Payments and Benefits – Declaration of Interests & Secondary Employment Procedure

10.0 Equality Impact Assessment (EIA)

No potential equalities issues have been identified in relation to the development of this policy, and consequently an EIA has not been completed.

11.0 Data Protection Impact Assessment (DPIA)

No potential data protection issues have been identified in relation to the development of this policy, and consequently an DPIA has not been completed.

12.0 Monitoring and Review

12.1 Monitoring

Ark's Executive and Leadership Team will monitor implementation of this policy on an ongoing basis. The Payroll team will monitor the average hours worked by employees when calculating how many hours an employee is working every week. The Payroll team will then flag any risks to managers.

12.2 Review

This policy will be reviewed within 3 years from the date of approval by our Board of Management, in accordance with Ark's policy review framework.

Appendix 1

Working Time Opt Out Declaration

Under the Working Time Regulations 1998 a worker's average weekly working time (including overtime) calculated over a rolling 17-week period must not exceed 48 hours unless the worker has previously agreed otherwise in writing.

Please sign below to confirm your agreement that this limit on your working hours will not apply, and that your average working time may therefore exceed 48 hours a week.

You may terminate this agreement by giving seven days' written notice at any time. Unless it is terminated in this way, this agreement shall remain in force until your employment with us ends.

All other terms and conditions of my employment will remain unaffected by this agreement.

I agree that the statutory maximum average working time of 48 hours a week shall not apply to my employment with Ark and that my average working time may therefore exceed 48 hours a week.

Signed: _____

Name: _____

Service: _____

Date: _____