



# **WORKING TIME POLICY**

Human Resources

Version 1

Approved by HR Committee on 14 November 2017

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## 1. INTRODUCTION

North Lanarkshire Leisure (NLL) is committed to the health and safety of all staff and to meeting its obligations under the Working Time Regulations (1998). NLL recognises that working patterns can have an impact on the health and safety of staff and customers and therefore sets out acceptable shift patterns and meal break requirements.

## 2. POLICY STATEMENT

NLL acknowledges the importance of allowing staff to take reasonable breaks from their work during the working shift in order to ensure their own health and safety and well-being and those of our customers.

NLL will endeavor to ensure that the arrangements introduced as a consequence of this policy do not discriminate against staff on the basis of the protected characteristics set out in the Equality Act 2010.

## 3. SCOPE

This policy will apply to all employees directly employed by NLL (with the exception of the Secondary Employment process which applies to contracted staff only). The Working Time Regulations also covers workers whilst they are working with the organisation including casual workers and volunteers. The policy does not apply to the self-employed or contractors. The term employee will be used throughout the policy and will apply to both employees and workers.

Where an employee has more than one job, both employers are responsible for enforcing the 48 hour week.

## 4. AIM

The purpose of this policy is to ensure compliance with the principles of the Working Time Regulations and the safe working of all staff.

The policy sets out for managers and staff how to work within the regulations or within agreed derogations.

## 5. ROLES AND RESPONSIBILITIES

5.1 Good working relations are vital for the organisation to operate successfully and provide excellent services. There is a joint responsibility for management, Trade Unions and employees to accept the responsibility of working together on issues in good faith and with the shared intention of facilitating good working relations. Both the organisation and staff side would wish to discourage an individual from exceeding the 48 hours per week maximum average.

### 5.2 Line Managers

It is the responsibility of line managers to ensure that they:

- Ensure that staff work within the acceptable shift patterns and meal breaks requirements. Managers must implement this policy and ensure that appropriate arrangements are put in place within Sections/Venues to monitor compliance

with the policy.

- Manage in line with this policy to ensure the service is not affected because an employee is working above the maximum average weekly limit. If a manager is concerned it must be discussed with the employee and advice sought from the HR Section, where appropriate.
- Are satisfied that the safety of the individual, colleagues or customers are not put at additional risk by an employee's request to opt out. Advice may be sought from the HR Section and an appropriate Risk Assessment undertaken.
- Monitor hours worked internally. If an employee also works in secondary employment they should only work a maximum of 48 hours per week in both jobs.
- Meet with the employee to discuss secondary employment on receipt of an Application Form (Appendix 2).
- Give consideration to operational business needs and personal circumstances before granting permission to undertake secondary employment.
- Deal with applications in a timely manner.
- If there are occasions when it is not possible to comply with the provisions for rest periods set out in this policy (e.g. on-call, end of shift overtime), managers must record them for audit purposes and to enable regular review.
- Due consideration should be given to any cultural or religious beliefs or practices which may impact on the timing of any breaks for particular members of staff. Due consideration should also be given to other individual circumstances such as reasonable adjustments agreed when an individual has a disability, or when staff choose to combine breastfeeding and returning to work.

### 5.3 **Employees**

It is the responsibility of employees to ensure that they:

- Act responsibly and comply with the acceptable shift patterns and meal break requirements detailed in this policy.
- Notify their manager if they undertake secondary employment.
- Adhere to the Working Time Regulations and take responsibility for the health and safety of themselves and for others.
- Sign an Opt Out Form (Appendix 1) if appropriate. Any individual who wishes to opt out because of secondary employment must seek permission from their line manager. They should also state whether it is for a specific period or indefinitely.
- Give 7 days notice if they wish to end the agreement to opt out.
- Complete a new Secondary Employment Application Form if the details of their secondary employment changes.
- Do not exceed the limit for their total working hours as set out in the Working Time Regulations and any secondary employment should not compromise this under any circumstances.

### 5.4 **Human Resources Section**

The HR Section will provide advice and support on all aspects of this policy to ensure application and compliance.

## 6 DEFINITIONS

Worker	<p>“Workers” are defined as anyone that NLL:</p> <ul style="list-style-type: none"><li>• has a duty to provide work for</li><li>• controls when and how that work is done</li><li>• supplies the tools and other equipment</li><li>• pays tax and NI contributions (excluding those staff who are employed by another employer but for whom we act purely as paymaster)</li></ul>
Working Time	<p>Working Time is defined as any time a member of staff is working at NLL’s disposal and carrying out activities or duties. Working time may therefore include:</p> <ul style="list-style-type: none"><li>• Time at work regarded as normal working hours as determined by duty rota’s, contracts of employment, etc.</li><li>• All hours worked outside the staff member’s normal working day, overtime etc.</li><li>• Time spent whilst responding to a call during a period of on call</li><li>• Time spent on behalf of NLL at events outside normal hours of work e.g. careers events.</li><li>• Time for training purposes, civic and public duties, health and safety and trade union duties.</li></ul>
Rest Break	<p>This means an uninterrupted break that is taken during the working day/shift.</p>
Rest Period	<p>This is a period which is not working time, other than a break or leave to which the worker is entitled.</p>
Shift Work	<p>This is a method of organising shifts whereby workers succeed each other at the same workstations according to a certain pattern including a rota, entailing the workers to work at different times over a given period of days or weeks.</p>
Shift Worker	<p>A worker whose work schedule is part of shift work.</p>
Unpaid Break	<p>The unpaid break (otherwise referred to as a meal break, a rest break, lunch, a break) is an undisturbed break during which staff have a right to leave the workplace if they so wish, unless circumstances are exceptional in which case the break would be compensated for by granting equivalent compensatory rest.</p>
Paid Break	<p>The paid break (otherwise referred to as a meal break, a rest break, lunch, a break) is a break during which staff are not permitted to leave the workplace, in line with the relevant Emergency Action Plan (EAP) for the specific venue. Full payment will be received for the period of the break. This will be reflected in the employee’s Contract of Employment. A defined list of posts has been identified by post title and</p>

venue, whereby the post holder must remain in the place of work at all times during the start and finish times, including designated breaks.

## **7. WORKING TIME REGULATIONS**

7.1 Staff will normally not be expected to work more than an average of 48 hours per week, calculated over a 17 week reference period. Staff may however, on a voluntary basis, choose to work more than the 48 hours average weekly limit. These staff members will be required to sign an Opt Out Agreement (Appendix 1) to indicate that they wish to be excluded from the maximum weekly working time provision.

NLL or the member of staff can rescind this agreement at any time by giving seven days' notice (in writing). Less notice will be considered in exceptional circumstances. If a member of staff wishes to opt back into working time protection they must confirm this in writing to their line manager and the HR Section.

The manager is required to review with the staff member on an annual basis whether or not it is appropriate to continue to work more than the 48 hours average weekly limit. Occupational Health advice should be sought where relevant.

Where a member of staff chooses to work in excess of the limit, a risk assessment should be carried out to establish whether or not working in excess of the limit constitutes safe working arrangements. NLL reserves the right to suspend or refuse an Opt Out Agreement, if NLL takes the view that the hours worked by the staff member(s) do not constitute safe working arrangements. The reasons for suspending/refusing an Opt Out Agreement should be explained.

7.2 NLL does require staff to be flexible at times of unforeseen circumstances, e.g. major incident or unforeseeable changes in activity. Under these circumstances where rest breaks may not be practicable, compensatory rest will be given at a later time.

## **8. SHIFT WORKING**

8.1 The Working Time Regulations state that a worker is entitled to the following rest periods and breaks:

- 24 hours in each 7 day period or this can be averaged out to 48 hours rest in each 14 day period.
- 11 hours consecutive rest between each working day.
- A minimum of 20 minutes rest if working 6 hours or more.

These arrangements are minimum requirements and are not intended to replace locally agreed arrangements.

8.2 NLL also recognises that working patterns have an impact on staff health and wellbeing and in consideration of this, all of the shift working patterns within NLL should be based on the following:

8.2.1 Staff will be required to work a variety of shifts and shift patterns depending on service needs.

8.2.2 All shifts over 6 hours must include a minimum period of 30 minutes unpaid break (20 minutes of which should be taken continuously).

- 8.2.3 The maximum number of consecutive standard day shifts recommended for staff to work is 7. Staff may request to work more than this (to a maximum of 10) if it is deemed safe to do so.
  - 8.2.4 Long shifts should not be worked consecutively for more than three days.
  - 8.2.5 Staff should normally have a rest period of not less than 11 hours in each 24 hour period. Where a pattern of shift working and/or 'on-call' working makes it impossible for a member of staff to take their full rest entitlement between shifts, line managers must make arrangements to allow equivalent compensatory rest as soon as possible.
  - 8.2.6 All staff should receive an uninterrupted weekly rest period of 35 hours (including the 11 hours of daily rest) in each seven day period. Where this is not possible, they should receive equivalent rest over a 14 day period, either as one 70 hour period or two 35 hour periods.
  - 8.2.7 Staff must not work more than an average of 48 hours per week from any employment over a 17 week reference period.
  - 8.2.8 An individual worker may agree to work more than the average of 48 hours in a 7 day period by signing an Opt Out agreement which they may cancel at any time. NLL cannot force an individual to sign an Opt Out agreement as any such agreement must be mutually agreed. (see section 7.1).
  - 8.2.9 Shift lengths should not normally be longer than 12 hours (12½ hours to include handover time).
  - 8.2.10 Consideration should be given to the requirements of the Equality Act 2010 and other NLL policies when rostering shifts and breaks. This may include the need to make agreed reasonable adjustments when an individual has a disability, to agree reasonable adjustments when staff choose to combine breastfeeding and returning to work and to consider any cultural or religious beliefs or practices which may impact on the timing of any breaks for particular members of staff.
- 8.3 Staff who feel that the hours they work are excessive and/or disruptive to adequate rest should bring this to the attention of their line manager.

## **9. BREAKS**

### **9.1 Unpaid (Rest) Breaks**

The unpaid break (otherwise referred to as a meal break, a rest break, lunch, a break) is an undisturbed break during which staff have a right to leave the workplace if they so wish, unless circumstances are exceptional in which case the break would be paid or be compensated for by granting equivalent compensatory rest.

Within NLL, any unpaid rest breaks should be based on the following:

- 9.1.1 Rest breaks must be provided for all staff working in excess of 6 hours and will be unpaid. As such, they should not be disturbed unless there is an exceptional need in which case the break would be paid or be compensated for by granting equivalent compensatory rest.
- 9.1.2 The duration of the rest breaks will vary according to where staff work and the shift patterns in place but in all cases must not be less than 20 minutes.

Where possible, staff should also have the opportunity and managers should make every effort to allow staff to have a meal break during the shift of between 30 and 60 minutes. Any break should be proportional to the length of the shift. The timing and length of breaks need to be agreed with managers in the interests of the service.

- 9.1.3 Within NLL, staff will not be allowed to add their breaks onto the beginning or end of their shift as breaks are given as a means of managing fatigue, which could lead to errors. For staff to take breaks at the end of a shift defeats the purpose of the break as staff are given rest time to improve their effectiveness in work. Breaks should take place towards the middle period of work, wherever possible.
- 9.1.4 If staff are unable to take the break because of service demands then the break should be paid or compensatory rest given in line with local time off in lieu arrangements. Time off in lieu for breaks will not be given at the beginning or end of the particular shift as outlined in 9.1.3 above. Prior agreement must be reached before any time off in lieu is taken in line with any local arrangements.
- 9.1.5 Actual working hours will, therefore, be calculated as start and finish times, minus any unpaid rest breaks. Any breaks taken need to be recorded on timesheets and verified by the manager.
- 9.1.6 Staff should be able to take this rest break away from their work station.

## 9.2 **Paid (Rest) Breaks**

- 9.2.1 To ensure compliance with the relevant Health and Safety legislation and NLL's Health and Safety Policies and EAP's, a defined list of posts has been identified by post title and venue, whereby the post holder must remain in the place of work at all times during the start and finish times, including designated breaks. The post holder is entitled to the same breaks as other staff who receive unpaid breaks, however, must be available at all times to respond to emergency situations etc. As the individual is not permitted to leave the premises during their break, this period of time will be considered as working time and a paid break will be provided. In these circumstances, the provision of paid breaks will be reflected in the individual's Contract of Employment.

All other posts, not identified as essential to remain on the premises, will be entitled to unpaid breaks.

## 10. **SPECIAL RULES FOR YOUNG WORKERS**

- 10.1 Working Hours: Young workers, those over the minimum school leaving age but under 18, may not work more than 8 hours per day or 40 hours per week. These hours cannot be averaged out and there is no option to opt out.
- 10.2 Daily Rest: A young worker i.e. sixteen or seventeen years old is entitled to 12 uninterrupted hours rest in each 24-hour period they work. This may be interrupted if periods of work are split up over the day or do not last long. A young worker's entitlement to daily rest can be reduced or excluded in exceptional circumstances only. Where this occurs, the young worker should receive compensatory rest within three weeks.

- 10.3 Weekly Rest: A young worker is entitled to two days off in each 7 day period of working. This cannot be averaged over a 14 day period. If the nature of the job makes it unavoidable, a young worker's weekly time off can be reduced to 36 hours.
- 10.4 Rest Breaks at Work: If a young worker is required to work for more than four and a half hours in any one period of time, he or she is entitled to a rest break of 30 minutes. A young worker's entitlement to rest breaks can be changed or excluded only in exceptional circumstances. Where this occurs, the young worker should receive compensatory rest within three weeks.

## 11. SECONDARY EMPLOYMENT

11.1 North Lanarkshire Leisure recognises that in some instances employees wish to undertake other employment, whether paid or unpaid, out with the Trust. It is acceptable for employees to have second jobs providing there is (i) no conflict of interest with NLL Ltd and (ii) no impact on their employment in terms of performance and/or attendance within the Trust.

11.2 The term "Secondary employment" in this policy includes:

- Paid employment outside of NLL
- Paid employment within NLL
- Voluntary work
- Self-Employment
- Casual/Agency work
- Reservist occupations

This list provides examples, however, is not exhaustive.

11.3 The purpose of this policy is to:

- Ensure that employees do not engage in other paid or unpaid work which conflicts or competes with the business and commercial interests of NLL Ltd.
- Ensure that employees do not engage in other paid or unpaid work which may conflict with or affect their performance or attendance under their Contract of Employment with the Trust.
- Prevent employees and/or the Trust from contravening legislation on working time/hours.

Before granting permission to undertake secondary employment for current employees the manager should consider the following:

- Potential conflicts of interest
- The Working Time Regulations
- The employee's current performance
- The employee's attendance and capability in their role and the potential impact secondary employment may have on attendance and performance
- Health and safety of individuals, colleagues and service users.

11.4 The trust may take disciplinary action against employees who undertake secondary employment which conflicts with the following:

- The business or commercial interests of the NLL Ltd

- The performance of normal duties within NLL Ltd
- The requirements of the Working Time Regulations

## 11.5 Working Time Regulations (WTR)

NLL also has a responsibility to ensure that staff and customer safety are not affected as a result of NLL staff working over the minimum weekly limit. Staff are therefore required to inform their manager if secondary employment results in them working more than a combined average of 48 hours over a 17-week reference period.

- 11.5.1 Employees must ensure that their total working hours do not exceed the limit as outlined in the WTR and that they comply with this legislation in respect of taking required rest periods.
- 11.5.2 Employees wishing to opt out of the maximum 48 hour working week may exercise their right under Regulation 5 of the WTR by agreeing to sign an Opt Out Agreement (Appendix 1).
- 11.5.3 Any employee who undertakes secondary or self employment whilst receiving occupational/statutory sick pay from the Trust may be subject to disciplinary action in accordance with the Trust's disciplinary procedure.
- 11.5.4 An employee who is absent as the result of injury connected with their secondary employment may not be entitled to occupational sick pay from the Trust.
- 11.5.5 Any adverse impact on attendance and/or timekeeping attributable to secondary employment will be investigated in accordance with the Trust's Disciplinary Procedure.
- 11.5.6 Employees undertaking secondary employment must ensure that their performance at work within the Trust is not affected in any way. Unsatisfactory performance due to secondary employment will be investigated in accordance with the Trust's Disciplinary Policy.

## 11.6 Application Procedure

- 11.6.1 All employees wishing to undertake secondary employment must seek written approval from their line manager using the Approval to Undertake Secondary Employment Application Form (Appendix 2).
- 11.6.2 The request must be approved by the individual's line manager and forwarded to the HR Section. Line managers should respond to requests within 14 days.
- 11.6.3 Employees must not commence secondary employment until approval has been granted.
- 11.6.4 In the event that a request is deemed unsuitable in the interest of the Trust, the line manager will confirm this decision in writing outlining the reasons for refusal.
- 11.6.5 Failure to comply with this procedure may result in action being taken in accordance with the Trust's Disciplinary Policy.

## **11.7 Appeals Procedure**

- 11.7.1 If a request for secondary employment is refused, the employee has a right to appeal against this decision. This should be confirmed, in writing, to the Managing Director, within fourteen days following confirmation of the refusal of the request.
- 11.7.2 The Managing Director or other nominated senior manager shall acknowledge receipt of the notification of appeal within five days and shall also inform an HR representative.
- 11.7.3 The Managing Director or a nominated senior manager shall arrange a meeting with the employee. The meeting shall be arranged, although not necessarily take place, within five working days and the written reply shall be made as soon as possible but in any event within five working days of such a meeting.
- 11.7.4 The decision of the Managing Director or nominated senior manager shall be final.

## **12. TRAINING**

It is the responsibility of the line manager to ensure that staff are made aware of this policy and any local arrangements, their role and responsibilities during the recruitment process and as part of their local induction.

## **13. APPEAL**

Employees reserve the right to invoke the grievance procedure if they feel that a decision to retrace permission is not justified or considers that they have been unfairly treated in relation to their working time.

## **14. EQUALITY**

NLL is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff and others reflects their individual needs and does not discriminate, harass or victimise individuals or groups. These principles run throughout our work and are reflected in our core values, our staff employment policies and our service standards. The responsibility for implementing the scheme falls to all Staff and NLL Board members, volunteers, agents or contractors delivering services or undertaking work on behalf of NLL.

## **15. AUDIT**

This policy may be subject to audit and will be assessed in line with normal audit planning processes.

Managers are responsible for implementing this Policy and the Working Time Regulations in their areas of responsibility. Evidence, monitoring records, Opt Out Agreements etc. must be available at Section/Venue level to demonstrate the Working Time Hours Regulations are being complied with as far as practically possible.

## **16. REVIEW**

This policy will be reviewed to reflect any changes in guidance or legislation. As a minimum, it will be reviewed three years after the date of approval.

**NORTH LANARKSHIRE LEISURE LTD**

**WORKING TIME REGULATIONS**

**OPT OUT AGREEMENT**

This form is to be completed by staff with second jobs or by staff working more than 48 hours over a rolling 17 week period.

I, \_\_\_\_\_ agree that I may work for more than an average of 48 hours a week.

I confirm that if I change my mind I will give three month's written notice to North Lanarkshire Leisure Ltd explaining my reason for doing so.

Signed

\_\_\_\_\_

Location

\_\_\_\_\_

Dated

\_\_\_\_\_

Employee Reference \_\_\_\_\_

To be returned to- Line Manager

**And**

HR Section  
Broadwood HQ  
1 Ardgoil Drive  
Cumbernauld  
G68 9NE

**Approval to Undertake Secondary Employment Application Form**

**Section 1 – Existing Employment within North Lanarkshire Leisure Ltd**

Surname:

Forename:

Post Title:

Location:

Employee Ref:

Start Date:

Number of hours working per week:

Pattern of hours:

**Section 2 – Secondary Employment**

Name and Address of Proposed Employer(s) (If self-employed please confirm the name of your company) :

Type of work/Nature of business:

Average hours to be worked per week:

Working pattern:

Risks associated with this employment:

**Section 3 – Staff Declaration**

Having read and understood NLL’s Secondary Employment Policy, I agree to comply with its requirements.

Signed:

Print Name:

Date:

**Section 4 – Line Manager’s Decision**

Date Application Received:

Decision:      Approved               Refused

Please state full reasons for refusing this request, if appropriate.

Date employee notified of decision:

Signed:

Print Name:

Date: