

Title

Working Time Regulations Policy and Procedure

Principle

Homekare Community Services is committed to protecting the health, safety and wellbeing of all team member's by ensuring full compliance with the Working Time Regulations 1998 (SI 1998/1833) and all associated legislation. We recognise that sustainable, safe working hours are fundamental not only to the welfare of our workforce but to the quality and safety of care delivered to every person we support. Overwork, fatigue and unsustainable scheduling are incompatible with the delivery of person-centred, safe care and create conditions in which safeguarding risks increase. This policy applies to all Homekare Community Services team member's regardless of contract type.

Objectives

This policy sets out the legal obligations of Homekare Community Services and the rights and responsibilities of all team member's in relation to working time. It establishes the procedures by which the organisation monitors compliance, supports staff wellbeing, and ensures that working hours do not compromise the safety of team member's or client's.

The purpose of this policy is to:

- Ensure full compliance with the Working Time Regulations 1998 and all applicable health and safety legislation
- Establish clear, workable procedures for scheduling, monitoring and managing working hours across all team groups
- Protect the physical and mental health and wellbeing of all Homekare Community Service team member's
- Prevent fatigue-related risk to client's and support the delivery of safe, high-quality care
- Define the process for voluntary opt-out agreements and establish robust safeguards for opt-out team member's
- Provide a governance framework that satisfies CQC Regulation 17 (Good Governance) and Regulation 18 (Staffing) requirements
- Link working time compliance to safeguarding obligations under the Care Act 2014 and NSAB guidance

Scope

This policy applies to all persons engaged by Homekare Community Services, including:

- Directly employed team member's on permanent, fixed-term or zero-hours contracts
- Bank workers and casual workers engaged on a flexible basis
- Team member's who hold more than one job (including employment with other providers)
- Night workers and those working irregular or split-shift patterns
- Workers aged 16-17 (who have enhanced protections under the Regulations)

Procedure

1. Definitions

Term	Definition
Team member	Any person working under a contract of employment or any other contract to personally perform work or services — broader than 'employee'
Working time	Any period during which a worker is working, at the employer's disposal and carrying out their activity or duties
Rest break	A period during the working day when the worker is not at their employer's disposal — a minimum of 20 minutes where daily work exceeds 6 hours
Daily rest	A continuous period of not less than 11 hours' rest in each 24-hour period
Weekly rest	A continuous period of not less than 24 hours' rest in each 7-day period (or 48 hours in a 14-day period)
Reference period	The 17-week rolling period over which the 48-hour average is calculated
Night worker	A worker who works at least 3 hours of their daily working time during nighttime (generally 11pm–6am) as a regular feature of their work
Night time	For community care: the period between 11pm and 6am unless agreed otherwise
Opt-out agreement	A voluntary, written agreement by a worker to disapply the 48-hour average weekly working limit
Fatigue	A physiological and psychological state caused by insufficient rest relative to workload; impairs cognitive function, judgement and physical performance

Travel time	Time spent travelling between client visits at the employer's direction — this counts as working time
Compensatory rest	Where standard rest cannot be taken due to the nature of the work, equivalent rest must be provided at another time

2. Working Time Limits and Entitlements

2.1 Maximum Weekly Working Hours

No HomeKare Community Services team member shall be required to work, or as a result of scheduling be caused to work, more than an average of 48 hours per week calculated over a 17-week reference period, unless a valid opt-out agreement is in place .

In calculating weekly average hours, the following count as working time:

- All care visits and associated documentation time
- Travel time between visits were directed by HomeKare Community Services
- Mandatory training and induction time
- Supervision, appraisal and team meeting attendance
- On-call time where the worker is significantly restricted in their activities

2.2 Daily Rest

Every team member's is entitled to not less than 11 consecutive hours' rest in each 24-hour period. Care Manager and Rosters must be constructed so that this entitlement is guaranteed within the schedule. No team member shall be rostered for a shift that begins within 11 hours of the end of their previous shift, except in a genuine emergency.

2.3 Weekly Rest

Every team member is entitled to not less than 24 hours' uninterrupted rest in each 7-day period (or 48 hours in each 14-day period). Rosters must be planned to ensure this entitlement is met. Where a team member chooses to work additional hours that affect weekly rest, this must be documented and the team member must not be subjected to any pressure to do so.

2.4 Rest Breaks During the Working Day

Any team member whose daily working time exceeds 6 hours is entitled to an uninterrupted rest break of not less than 20 minutes. Workers aged 16-17 are entitled to a 30-minute break where daily working time exceeds 4.5 hours. Care Manager must ensure that realistic travel and break time is built into daily visit schedules. Team member's must not be expected to work through their rest break entitlement to complete a run of visits.

2.5 Night Workers

A night team member's normal hour of work must not exceed an average of 8 hours in each 24-hour period, calculated over a 17-week reference period. Where night work involves special hazards or heavy physical or mental strain, no team member shall work more than 8 hours in any single 24-hour period (with no averaging).

Homekare Community Services will:

- Identify all team member's who are night workers within the meaning of the Regulations
- Offer a free health assessment before any team member starts regular night work, and at regular intervals (annually as a minimum) thereafter
- Provide health assessment records to the occupational health provider and retain a record of offers made and assessments completed
- Transfer a night team member to day work if recommended by a medical practitioner on health grounds

2.6 Annual Leave

All team member's are entitled to a minimum of 28 days' (5.6 weeks') paid annual leave per year, including bank holidays, pro-rated for part-time team member's. Annual leave entitlement accrues from the first day of employment. Homekare Community Services will ensure that leave is planned, taken and recorded in accordance with this entitlement. All holiday entitlements must be taken otherwise they will be forfeited. You will not be able to sell your holidays back to the company.

Maximum of 1 weeks leave will only be allowed to be carried over after 2 years of permanent employment with HomeKare Community Services (unless expressed permission) . You will not be allowed to carry on holidays the following year after. Carrying over more than 4 weeks' leave is not normally permitted, except where leave could not be taken due to sickness or maternity/paternity leave, express permission will need to be given by the registered manager or Director.

2.7 Exceptional Circumstances — Compensatory Rest

In genuine emergency situations where standard rest periods cannot be observed (for example, where a team member extends their shift at short notice to cover a care emergency), the team member must be provided with compensatory rest of an equivalent period as soon as reasonably practicable. Any such occurrence must be documented on the team member's record and reviewed by the Registered Manager or Care Manager within 24 hours.

Statutory Working Time Limits — Quick Reference

Maximum average working week: 48 hours (over 17-week reference period)

Daily rest: Minimum 11 consecutive hours between shifts

Weekly rest: Minimum 24 hours uninterrupted rest per 7-day period

Daily break: 20 minutes (uninterrupted) where working day exceeds 6 hours

Night worker average: Maximum 8 hours per 24-hour period

Night worker — special hazards: Maximum 8 hours absolute (no averaging)

Annual leave: Minimum 28 days including bank holidays

Young workers (16-17): 12 hours' daily rest; 2 days' weekly rest; 30-min break for 4.5+ hours

3. The 48-Hour Opt-Out Agreement

3.1 Voluntary Nature of the Opt-Out

The 48-hour opt-out is entirely voluntary. No team member may be required, pressured or incentivised to sign an opt-out agreement as a condition of employment, continued employment or access to particular shifts or roles. Any such pressure constitutes an unlawful detriment.

Dismissal of a team member, or subjecting a worker to any detriment, for refusing to sign or for withdrawing an opt-out agreement, is automatically unfair and unlawful.

3.2 Requirements for a Valid Opt-Out

A valid opt-out agreement must:

- Be in writing and signed by the team member
- Be entered into freely and without coercion
- Be retained on the team member's HR file
- Specify whether it applies indefinitely or for a defined period
- Inform the team member of their right to withdraw at any time with a minimum of 7 days' written notice (or longer by mutual agreement, up to 3 months)

Homekare Community Services will use the standard Opt-Out Agreement form for all opt-out agreements. Verbal opt-outs are not acceptable.

3.3 Ongoing Obligations Where an Opt-Out is in Place

Even where a valid opt-out agreement is in place, Homekare Community Services retains a duty of care to:

- Monitor actual hours worked to detect patterns of excessive working
- Conduct regular (at least quarterly) reviews of total hours worked for all opted-out team member's
- Intervene proactively where hours are approaching levels that risk health or safety
- Ensure that opted-out team member's are not systematically relied upon to fill structural team level gaps

3.4 Second Employment — Combined Hours

Where a team member is employed by or engaged with one or more other employers or providers, their combined total working hours count towards the 48-hour limit. The Care Manager or HR Lead will:

- Include a declaration of other employment on the employment application form and in the employment contract
- Ask team member's to update this declaration promptly if they take on additional employment
- Issue a written enquiry letter to any team member where there is a reasonable belief that combined hours may be approaching or exceeding the 48-hour limit
- Require the team member to either sign an opt-out agreement for both employers or to reduce their Homekare Community Services hours to ensure combined compliance

4. Working Time Monitoring and Record Keeping

4.1 Employer Obligations

HomeKare Community Services is legally obliged to keep adequate records to demonstrate working time compliance. Records must:

- Cover a minimum of two years' working time data for each team member
- Be sufficient to allow the Registered Manager to assess compliance with the 17-week reference period average
- Include a record of which team member's have signed opt-out agreements
- Be available for inspection by the HSE, CQC or other regulatory authorities on request

4.2 Scheduling and Rostering Controls

The Care Manager is responsible for ensuring that all rosters are constructed in compliance with this policy. Before issuing any roster, the Care Manager must confirm that:

- No team member is scheduled to start a shift within 11 hours of their previous shift ending
- Travel time between visits is included in the calculation of daily and weekly hours
- Team members' weekly totals are within the 48-hour limit (or a valid opt-out is held)
- Night team members' schedules comply with the 8-hour average limit
- Weekly rest entitlements are built into the roster

4.3 Working Hours Recording

All HomeKare Community Service team member's are required to accurately record their working hours using the organisation's designated time-recording system. Team member's must:

- Log actual start and finish times for each visit, including travel
- Record training, meetings and administrative tasks that form part of their contracted or directed working time
- Report any discrepancy between scheduled and actual hours to their line manager promptly
- Notify their line manager and the Care Manager if they believe their working hours are approaching or exceeding legal limits

4.4 Management Monitoring

The Registered Manager or designated manager will:

- Review working hours data for all team member's on a monthly basis
- Produce a quarterly working time compliance report for Quality Governance meetings
- Investigate and document any working time breach, near-miss or concern raised by a team member
- Ensure the working time monitoring process is included in the annual governance audit schedule

5. Fatigue Risk Management

5.1 Fatigue as a Health and Safety Risk

Homekare Community Services recognises that fatigue is a foreseeable and significant health and safety risk in domiciliary care. Fatigue impairs concentration, memory, decision-making and physical function — all of which are critical to safe care delivery. A fatigue risk assessment is conducted as part of Homekare Community Service overall health and safety risk assessment framework under MHSWR 1999 Regulation 3 (see HK-HS-001).

5.2 Risk Factors for Fatigue in Community Care

The following factors are recognised as heightening fatigue risk for community team member's and are specifically addressed in Homekare Community Service scheduling and support arrangements:

- Long shift patterns, split shifts, early starts and late finishes
- Insufficient recovery time between shifts (less than 11 hours)
- Night working and irregular circadian patterns
- High caseloads and time-pressured visit schedules
- Lone working with limited peer contact during the working day
- Emotional labour — working with people who have complex, end-of-life or dementia-related needs
- Travel demands including driving in adverse weather conditions while fatigued
- Second employment adding to total hours

5.3 Fatigue Prevention Controls

Homekare Community Service implements the following fatigue prevention controls:

- Minimum 11-hour daily rest built into all rosters as a non-negotiable scheduling rule
- Travel time included in working hours calculations as directed working time
- Visit schedules designed with realistic journey times — team member's are not expected to absorb travel time within personal time
- Regular one-to-one supervision with a mandatory workload and wellbeing review component
- Annual appraisal including discussion of working patterns, overtime and second employment
- Access to Mental Health first aid
- Wellness Action Plans offered to all team member's — completed voluntarily and shared with line manager where the team member consents
- Prompt response to team member's concerns about unsustainable workloads — no detriment for raising concerns

6. Working Time Compliance and Safeguarding

Homekare Community Service operates within the jurisdiction of the Nottinghamshire Safeguarding Adults Board (NSAB). All safeguarding referrals are directed to Nottinghamshire County Council MASH: 0300 500 8080.

Working Time Compliance as a Safeguarding Issue

The NSAB recognises that organisational and institutional abuse can arise from the structure, policies and practices of a care provider

Fatigue created by unsustainable scheduling is a known antecedent of acts of omission, missed visits, medication errors and poor professional practice

Neglect (a type of abuse under the Care Act 2014 and NSAB procedures) can occur where fatigued team members fail — through impaired judgement — to meet clients' essential care needs

Homekare Community Service's commitment to working time compliance is therefore an integral part of its safeguarding obligations, not a separate employment matter

Any working time breach that is assessed as creating or contributing to a risk to a client must be treated as a potential safeguarding concern

Safeguarding referrals: Nottinghamshire County MASH — 0300 500 8080

Where a working time breach is identified and there is a possibility that a client may have been adversely affected (including a missed care visit, a medication error, or a care omission), the Registered Manager must:

- Review the incident as a potential Duty of Candour matter and notify the affected client and/or their representative as appropriate
- Consider whether a safeguarding referral to NSAB MASH (0300 500 8080) is required under the Homekare Community Service Safeguarding Policy
- Complete an Accident and Incident Report and review for learning
- Notify CQC as a notifiable incident where the threshold for notification is met

7. Team Member's Rights, Responsibilities and Non-Detriment

7.1 Team member's Rights Under This Policy

Every Homekare Community Services team member has the right to:

- Receive accurate information about their working time entitlements on commencement of employment and when entitlements change
- Receive rest breaks, daily rest and weekly rest in accordance with the Regulations and this policy
- Receive not less than 28 days' paid annual leave per year
- Refuse to sign an opt-out agreement without suffering any detriment or disadvantage
- Withdraw an opt-out agreement by giving written notice of at least 7 days
- Raise a concern about working hours, workload or fatigue without fear of detriment
- Receive a proactive, supportive response from their line manager when working time concerns are raised

7.2 Worker Responsibilities

All team members must:

- Accurately record their actual working hours using Homekare Community Service time-recording system
- Disclose additional employment or self-employment to their line manager or HR Lead and update this disclosure promptly if their circumstances change
- Notify their line manager or Care Manager promptly if they believe their working hours are approaching or exceeding legal limits
- Not knowingly work hours in excess of their legal entitlement without a valid opt-out agreement in place
- Take rest breaks, daily rest and annual leave in accordance with this policy
- Co-operate with working time monitoring, including completing time-recording accurately and on time

7.3 Protection Against Detriment

No team member will be subjected to any detriment — including but not limited to reduced hours, loss of shifts, exclusion from development opportunities, disciplinary action or dismissal — as a result of:

- Asserting rights under this policy or the Working Time Regulations 1998
- Refusing to sign an opt-out agreement
- Withdrawing an opt-out agreement
- Raising a concern about working hours, scheduling or fatigue

Any manager who subjects a team member to such detriment will be subject to disciplinary action under Homekare Community Services Disciplinary, Grievance and Appeals Policy.

8. Young Workers (Aged 16-17)

Team member's aged 16-17 are subject to enhanced working time protections under the Regulations. Homekare Community Services will ensure that any young worker engaged in care or support roles under this provision is subject to the following limits:

- Maximum 8 hours per day and 40 hours per week (with no opt-out available)
- Minimum 12 hours' daily rest between each working day
- Minimum 2 days' weekly rest (consecutive where possible)
- 30-minute rest break where daily working time exceeds 4.5 hours
- No night work (between 10pm and 6am) other than in very limited prescribed circumstances

Young team member's must not be placed in lone working situations without specific risk assessment and management agreement.

9. Training and Communication

All Homekare Community Services team member's will receive instruction on their working time rights and responsibilities as part of their induction programme. This will include:

- An overview of the Working Time Regulations 1998 entitlements (rest breaks, daily rest, weekly rest, annual leave)
- How to accurately record working hours using Homekare Community Services time-recording system
- The opt-out agreement process and the right to refuse without detriment

- How to raise a concern about working hours or workload
- The connection between working time compliance and safe care — including safeguarding

This policy will be made available to all team member's via the Homekare Community Services Nurse Buddy app. Managers and Care Manager will receive additional training on rostering compliance and fatigue risk management as part of their role induction.

10. Governance, Monitoring and Review

Governance Activity	Responsibility / Frequency
Monthly working hours data review	Registered Manager / Care Manager — monthly
Quarterly working time compliance report to Quality Governance Meeting	Registered Manager — quarterly
Annual working time audit (hours records, opt-out register, monitoring logs)	HR & Compliance Lead— annually
Working time breach investigation and documentation	Registered Manager — within 5 working days of identification
Night worker health assessment	Registered Manager / Occupational Health — on commencement and annually
Opt-out register review	HR & Compliance Lead — 6-monthly
Annual policy review (or earlier if legislation, CQC guidance or incident requires)	Registered Manager — annually
Team member supervision — workload and wellbeing review component	Line Manager

Working time compliance data will be included in Homekare Community Services Quality Assurance Report and reviewed at Quality Governance Meetings. Any working time breach, near-miss or enforcement action will be logged, investigated and the learning applied to prevent recurrence. CQC will be notified of any working time-related incident that meets the threshold for notification under the duty of candour or notifiable incidents requirements.

11. Procedure — Step-by-Step

11.1 Procedure: Rostering a New or Changed Working Pattern

- Care Manager receives the requirement for a new or changed schedule
- Check existing contracted hours, current weekly average, opt-out status and any health or reasonable adjustment notes for the team member
- Construct the draft schedule ensuring: (a) daily rest of not less than 11 hours between shifts; (b) weekly rest of not less than 24 hours per 7-day period; (c) travel time included in hour totals; (d) weekly average does not exceed 48 hours or is covered by a valid opt-out
- Confirm that rest breaks are achievable within the scheduled day
- Issue the rota to the worker with not less than [specify notice period, minimum 1 week] notice
- Retain a copy of the confirmed rota for working time records

11.2 Procedure: Opt-Out Agreement

- Team member indicates willingness to consider an opt-out (this must always be initiated by the team member, not the employer)
- HR Lead or Registered Manager provides the team member with the standard Opt-Out Agreement Form and a clear written explanation of their rights, including the right to refuse and the right to withdraw
- Allow the team member a minimum of [48 hours] to consider before signing — no pressure is applied
- Team member signs and returns the form; the signed form is placed on the worker's HR file
- HR Lead adds the worker to the Opt-Out Register and sets a 6-monthly review reminder
- Monitoring of actual hours for the opted-out worker is increased: monthly hour totals reviewed
- If the team member withdraws their opt-out, accept their written withdrawal notice; confirm in writing the withdrawal is received; update the Opt-Out Register; adjust scheduling accordingly within 7 days

11.3 Procedure: Managing a Working Time Concern or Breach

- Working time concern identified (by monitoring data, team member's self-report, supervisor observation or complaint)
- Registered Manager or Care Manager reviews the available working time records to assess the nature and extent of the issue
- If a breach of the Regulations has occurred, document the breach on an Incident Report and begin an investigation within 5 working days
- Meet with the team member; ensure they are not placed at risk of further breach pending investigation; offer wellbeing support
- Identify root cause: scheduling error, under-staffing, second employment, opt-out failure, or other factor
- Implement remedial action: adjust scheduling; add to opt-out register if appropriate; address root cause
- If a client may have been affected by a fatigue-related care failure, initiate Duty of Candour and assess for safeguarding referral NSAB MASH: 0300 500 8080)

- Review learning at Quality Governance Meeting; update risk assessment if required

This policy is owned by the Registered Manager and must be reviewed annually or sooner in response to: (a) changes in the Working Time Regulations 1998 or associated legislation; (b) CQC inspection findings; (c) a working time breach or incident; (d) changes in HomeKare community service model or staffing arrangements.

Linked Legislation and Guidance

Legislation / Framework	Relevance to This Policy
Working Time Regulations 1998 (SI 1998/1833)	Primary legislation — maximum hours, rest breaks, daily/weekly rest, annual leave, night work, opt-out
Health and Safety at Work etc. Act 1974 (HSWA)	General duty to ensure employee health, safety and welfare — fatigue is a foreseeable risk
Management of Health and Safety at Work Regulations 1999 (MHSWR)	Duty to assess and control risks including fatigue; risk assessment, training, information
Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 — Regulation 12	Safe care and treatment — fatigue as a contributory factor in adverse events
Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 — Regulation 17	Good governance — documented working time monitoring and audit requirements
Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 — Regulation 18	Staffing — sufficient numbers; support and development; safe working conditions
Care Act 2014 — Statutory Safeguarding Duties	Organisational neglect and institutional abuse — unsafe scheduling as a safeguarding risk factor
Employment Rights Act 1996	Protection against detriment and dismissal for asserting working time rights
RIDDOR 2013	Reporting of fatigue-related workplace accidents and dangerous occurrences
NICE NG13 / NG22 / NG46 / QS123	Evidence-based workforce wellbeing, home care quality, sustainable workloads

Skills for Care — Workforce Wellbeing Guidance	Sector-specific fatigue prevention, scheduling and staff support best practice		
NSAB Multi-Agency Safeguarding Procedures	Safeguarding referral routes; link between overwork/fatigue and safeguarding risk		
CQC Single Assessment Framework	Quality statements: safe staffing, wellbeing, governance — inspection readiness		
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