

## **1. Introduction and Who Guideline applies to**

- 1.1 These guidelines set out the University Hospitals of Leicester (UHL) NHS Trust's Guidance on Compensatory Rest for Medical staff.
- 1.2 This guidance document should be used in line with the Trust's Working Time Regulations Policy (Trust Reference B19/2014).
- 1.3 This guidance applies to all medical staff employees of the Trust (permanent, fixed term and locum and temporary medical staff). Agency or contract workers are also included but responsibility and liabilities under the regulations lie with the body that is responsible for paying them (i.e. the Agency).

## **2. Guideline Standards and Procedures**

### **2.1 The Regulations**

- 2.1.1 The Working Time Regulations provide the following basic level of protection for workers:
  - Maximum average working time of 48 hours a week, averaged over a 17-week reference period. The reference period for doctors in training is 26 weeks.
  - Entitlement to a rest break of 20 minutes (unpaid) if the working time exceeds 6 hours.
  - Entitlement to a minimum daily rest period of 11 consecutive hours between each duty period.
  - Entitlement to a minimum weekly rest period of at least 24 hours or 48 hours in a two-week period
  - The total rest entitlement for a week is 90 hours a week on average - this does not include breaks at work, which are additional.
  - Maximum average normal working hours of eight hours in each 24-hour period for night workers, again normally calculated over a 17-week reference period.
  - Free annual health assessments both for existing night workers and those being assigned to night work.
  - Entitlement to a minimum of 28 days paid leave (this can include bank holidays).
- 2.1.2 This guidance specifically emphasizes the 11 hours consecutive rest period and the process for compensatory rest.
- 2.1.3 The Regulations also identify special category workers, including hospital workers, whose activities involve the need for continuity of service and provide some flexibility in relation to their daily rest periods.
- 2.1.4 If a special category worker has to work during what would otherwise be a rest period or rest break, the employer must allow the worker to take 'compensatory rest'.
- 2.1.5 Employees cannot opt out of the rest requirements.

## 2.2 Rota Planning

- 2.2.1 All rotas must include an 11 hour rest break in every 24 hour period.
- 2.2.2 The 11 hours' rest should be continuous. However, if a total of 11 hours of rest is not achieved during an on-call period or /in a 24 hour period, then compensatory rest should be provided.
- 2.2.3 If the 11 hours of continuous/*total* rest has not been achieved and the employee does not think they are fit to work the next duty period they should contact their line manager (please refer to the flow chart in appendix 1).

## 2.3. Responsibilities

- 2.3.1 Doctors must ensure that their line manager is aware of any additional work being undertaken. It is the doctors responsibility to ensure when undertaken additional work, the required Working Time Directive Rest is achieve.
- 2.3.2 Doctors should inform their line manager if there are difficulties preventing them from taking rest breaks, daily or weekly rest periods, or when taking compensatory rest.
- 2.3.3 It is everyone's responsibility to ensure that continuity of care and safety of patients remains the first priority. In the event that a doctor is not able to achieve 11 hours of continuous rest, provision for 'compensatory rest' will apply. This does not remove the Service's duty to plan for rest provisions necessary to comply with the Regulations.
- 2.3.4 Line Managers should ensure employees have the opportunity to achieve required rest and/or the employee is able to take compensatory rest when required and must also ensure accurate records of when compensatory rest is taken.

## 2.4. Compensatory Rest and Pay

- 2.4.1 Compensatory rest is a period of rest the same length as the period of rest, or part of a period of rest, that a worker has missed.
- 2.4.2 Compensatory rest must be taken as soon as possible following the interruption to rest period, and ideally before the next period of work in order for it to be effective. Compensatory rest must not be accrued to be taken at a later date.
- 2.4.3 The amount of compensatory rest should be equal to the interruption to the rest period and not the entire rest period.
- 2.4.4 Please refer to appendix 2 providing examples of how compensatory rest may be taken.
- 2.4.5 The basic principle is that a doctor should not be paid twice for work undertaken and there is no requirement for compensatory rest to be paid.
- 2.4.6 If a doctor has already received payment for the additional hours worked then compensatory rest should be taken as unpaid time. For example in an emergency situation a doctor works additional hours and receives locum payment for the extra hours worked, the required compensatory rest taken must be taken as unpaid time off.
- 2.4.7 If a doctor is working an on-call duty and has not received 11 hours of rest during the on-call duty period, any compensatory rest taken should be taken as unpaid time. This is on the basis that the doctor will be receiving an averaged out payment for work arising when on call (allowances and availability for junior doctors and Programmed Activities for Consultants). If on-call duty hours worked routinely exceeds or lessens the doctor should discuss this with their Line Manager for a review of the on-call payment and/or work pattern. If the doctor does not receive 11 hours of rest routinely, they should raise this with their line

manager so that the doctor's work pattern can be revised to ensure that 11 hours of rest is achievable on the majority of occasions.

- 2.4.8 If the doctor has not been paid additional hours for the extra work undertaken compensatory rest should be taken during paid time.

### **3. Education and Training**

- 3.1 There are no specific training requirements for this guideline, however this guideline must form part of the local induction.
- 3.2 The document is always available on insite for reference.
- 3.3 Further information and guidance is available from the Generalist Human Resources CMG Team.

### **4. Monitoring Compliance**

<b>What will be measured to monitor compliance</b>	<b>How will compliance be monitored</b>	<b>Monitoring Lead</b>	<b>Frequency</b>	<b>Reporting arrangements</b>
Compensatory time off is provided where the 11 hours of rest has not been achieved	via the Exception Reporting package for Junior Doctors. Consultants will be required to keep a manual record	Rota Co-ordinators and Line Managers	Bi-monthly	Line Managers

### **5. Supporting References (maximum of 3)**

- The Working Time Regulations 1998
- UHL Working Time Regulations Policy

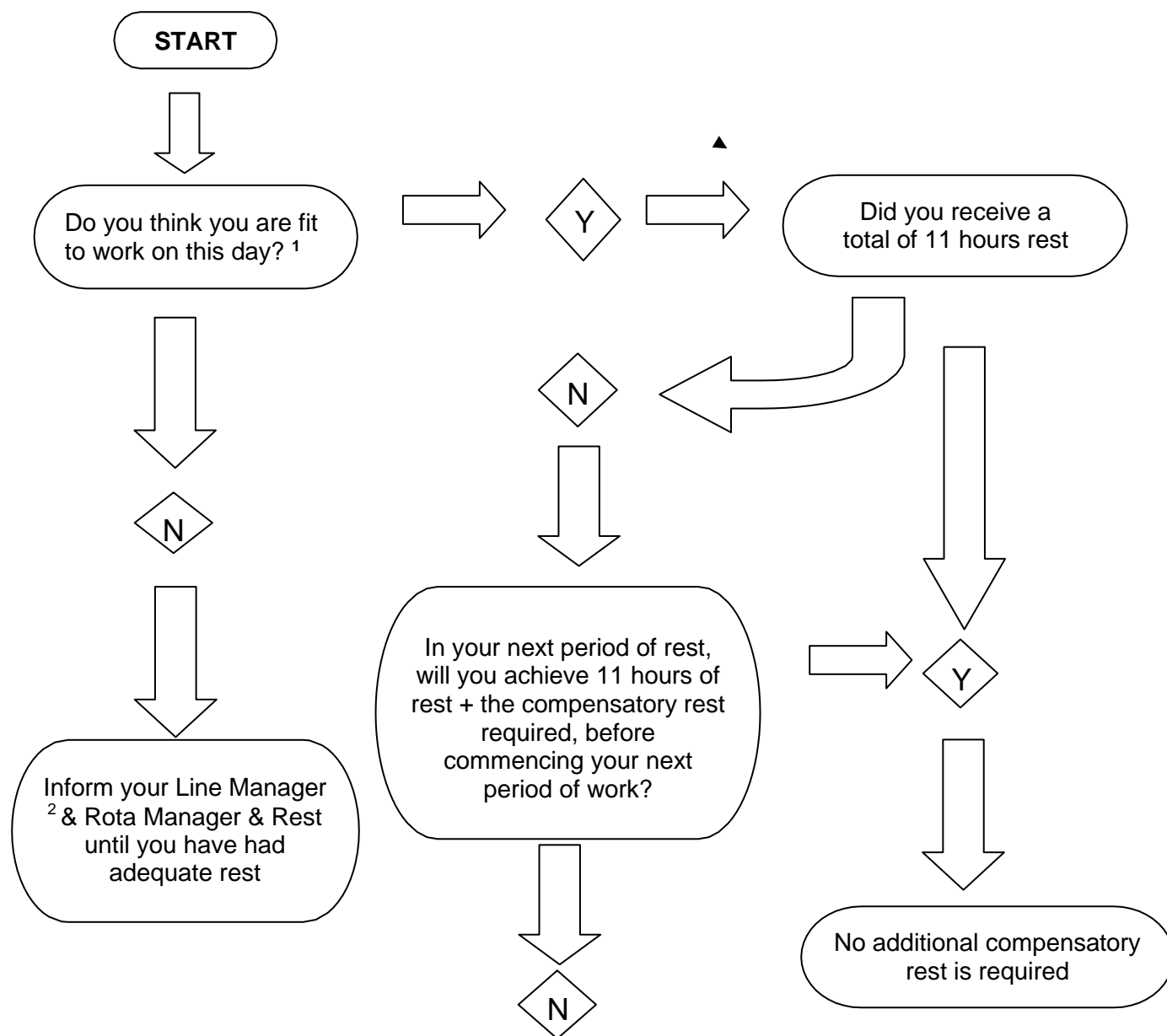
### **6. Key Words**

Compensatory Working Time Regulations (WTR), Working Time Directive (WTD), European Working Time Directive (EWTD), On-calls, Shifts, Rest Requirements, Hours.

<b>CONTACT AND REVIEW DETAILS</b>	
<b>Guideline Lead:</b> Vidya Patel, Medical Human Resources Manager	<b>Executive Lead:</b> Hazel Wyton – Director of People and OD
<b>Details of Changes made during review:</b> Minor grammatical and formatting changes, also some changes to monitoring arrangements.	

### Compensatory Rest Flowchart

Use this flowchart to assess what action needs to be taken if you have not received adequate rest to work on the following day and/or require compensatory rest.






You should liaise with your line manager to arrange for additional compensatory rest to be given. Ideally you will be able to reduce your hours of work for today. If this is not possible your line manager will need to liaise with Human Resources

<sup>1</sup> When making this decision doctors must ensure that they have considered the Health and Safety of both patients and themselves.  
<sup>2</sup> In the event compensatory rest is required during the out of hours period, you will need to inform the Consultant on-call. If you are a consultant on-call, you will need to inform the Duty Manager.

**COMPENSATORY REST EXAMPLES**

**Key:**

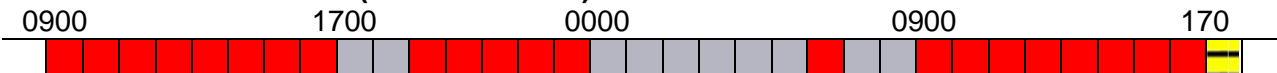
Work	
Rest	
Compensatory rest	

**A. 32 hour non resident (from 1700-0900) on call duties**



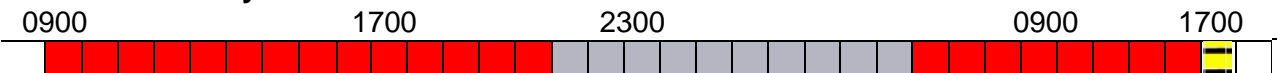
- Work between 2000 and 2200 (2hours)
- 11 hours rest achieved
- No compensatory rest required

**B. 32 hour non resident (from 1700-0900) on call duties**



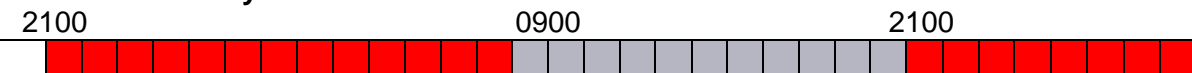
- Work between 1900 and 0000 and between 0600 and 0700 (6hours)
- Only 10 hours rest achieved
- 1 hour compensatory rest taken from 1700 (16 hour rest period is provided between 1700 hrs and 0900 hrs, 5 hours available for compensatory rest)

**C. Full Shift Duty**



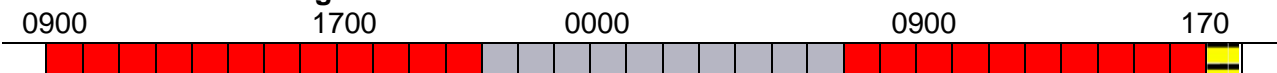
- Doctor was due to work a 13 hour shift from 0900-2200, however due to an emergency situation the doctor works a 14 hour duty period.
- 1 hour compensatory rest needs to be taken. If the doctor is fit to commence work at 0900, compensatory rest should be taken at 1700 hours the followingday.

**D. Full Shift Duty**



- Doctor was due to work at night shift from 2100- at 0900, however due to an emergency situation the doctor works an extra hour a total of 13 hour dutyperiod.
- 11 hours rest achieved
- No compensatory rest required under the working timeregulations

**E. Consultant working a non resident on call duties**



- Only 10 hours rest achieved
- 1 hour compensatory rest taken from 1700 (16 hour rest period is provided between 1700 hrs and 0900 hrs, 5 hours available for compensatory rest)