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**POLICE SERVICE OF SCOTLAND
WORKING TIME REGULATIONS
WORKFORCE AGREEMENT
Superintending Ranks**

POLICE SERVICE OF SCOTLAND WORKFORCE AGREEMENT

This agreement is made between the Chief Constable (The Employer) and The Association of Scottish Police Superintendents. This paper comprises a Workforce Agreement for the purposes of Regulations 41 and 23 of the Working Time Regulations 1998 (as amended).

Policy Statement

The purpose of the Working Time Regulations is to provide minimum standards of health and safety at work by setting out certain entitlements and limitations concerning working time. In recognising this purpose, the Regulations should be viewed as a package of minimum standards and not as a list of individual, unrelated conditions of employment legislation.

It is recognised that the majority of existing conditions of service for Police Officers are an enhancement of those contained within the Working Time Regulations. The terms of this workforce agreement seeks to ensure that there will be no detriment to existing conditions.

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It is agreed;

1. Limitation of Agreement

This agreement shall apply to all police officers of Superintendent and Chief Superintendent ranks, including those who are temporarily promoted. For ease of reference the term employee(s) means such police officers.

2. Effective Date and Duration of Agreement

This agreement will be effective from the date of signing for a period of five years.

3. Review of Agreement

The agreement will be subject to regular monitoring and review through the recognised consultative processes and will take place at intervals not exceeding three months.

Alterations to, or termination of, the agreement may be proposed in writing, by either side during the 5 year term giving a minimum notice period of 6 months. This period may be reduced if agreed by both sides.

4. Definition of Working Time

For the purposes of the Working Time Regulations 1998 working time is any period where an employee is:

- Working; and
- At the disposal of their employer; and
- Carrying out activity or duty as an employee.

All three elements of this definition must be satisfied.

It is agreed that Working Time includes:

- Being on-call at the place of work, or at home where obligations placed upon the employee cause considerable restrictions on their personal life.
- Undertaking work at home which is required as a consequence of the role being carried out.
- Where non-working time is interrupted for a work-related matter (e.g. telephone disturbance, recall to duty) for the duration of the interruption.
- Travel outside of normal rostered duty hours to and from duty at a place other than the normal place of duty.
- Travel to/from meetings, courses and any other place of duty other than the normal place of duty, whether within or outside of normal rostered duty time.

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- Time spent undertaking instruction on residential or other training courses.
- Agreed time spent on homework directly arising from said training or residential courses, including related reports or projects out with the class.
- Business functions which are work/job related excluding those which are either:
 - entirely or predominantly social in character;
 - or
 - any time during the event which is considered social in character.

It is agreed that other employment, business interest or voluntary activity may constitute working time.

It is agreed that Working Time does not include:

- On-call periods where the individual is free to pursue non work related activities.
- Travelling to/from the normal place of work.
- Undertaking voluntary courses of study, whether work related or not.

5. Weekly Working Limits

The reference period for the 48 hour average maximum working week shall be a 17 week rolling period.

Employees shall not opt out of the maximum average working week of 48 hours.

It is agreed that all officers subject to this agreement are required to record their working time and it is agreed that the service will put in place arrangements for monitoring working time.

6. Night Workers and Night Working Limits

Night time shall comprise the 7 hour period between 2300 and 0600.

An employee who works at least 3 hours of their daily working time during night time is a "night worker" for the purposes of the Working Time Regulations. This includes all employees deployed on a shift pattern, which regularly includes a requirement to perform duty during night-time. This does not include overtime which may carry over into night time.

Night work shall not exceed 10 hours for each 24 hour period.

No night worker shall work for more than 4 consecutive nights in any 7 day period.

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This does not preclude a part-time worker reaching an individual agreement with the employer in respect of their working pattern.

It is acknowledged that there may be occasions where unforeseen operational demands preclude adherence to the limits on night work.

7. Free Health Assessments

It is agreed that all employees who are night workers or about to take up night work or are carrying out an on-call role at night, must receive an offer of a free health assessment. The assessment will be conducted by the Force Occupational Health Provider. A repeat assessment must be offered regularly.

Where the offer of a health assessment is accepted a questionnaire will be completed and submitted to the Occupational Health provider for assessment by a qualified medical practitioner. The details of the health assessment remain confidential and the People and Development department will only receive medical advice as to whether the employee is suffering from health problems which are considered to be connected with the fact that the employee performs night work.

Where a health assessment determines, or information is received from an employee's own medical practitioner that in their opinion he/she is unfit for night working on medical grounds, the line manager should make a management referral to the Occupational Health provider for assessment. Where restrictions are to be placed on night working the Occupational Health provider and the People and Development department will work with Line Managers and will seek to make adjustments to working time insofar as reasonably practicable or transfer that employee to work which the employee is suited and which can be undertaken during periods out with night-time.

The employer will take reasonable steps to provide alternative work. In the event, however, that this is not available, the normal rules in relation to sick leave and pay shall continue to apply until alternative work can be found.

8. Monitoring/Record Keeping

The reference period for monitoring compliance with the weekly working and night working limits shall be any period of 17 weeks in the course of an employee's employment.

Recording and monitoring will be undertaken using SCoPE HR/Duty Management system to show:

- Whether the maximum average weekly working limit has been, or is likely to be breached.
- That the average length of night work and maximum length of night work are being adhered to.
- The application of compensatory rest.

Records will be kept for a period of 6 years and, with the exception of medical records, will be made available for inspection and copies provided to the Inspectors of the Health and Safety Executive, the People and Development department and at the request of the employee and/or representatives of The Association of Scottish Police Superintendents.

9. In-Work Rest Break

Current entitlement to a paid meal break/refreshment for officers of the rank of constable and sergeant only is available through the Police Service of Scotland Regulations 2013 and Determinations. In the interests of fairness and equality, this agreement allows these principles to apply to superintending ranks and will be included in working time.

It is noted that unforeseen operational demands may reduce the rest periods referred to. This will only occur after due cognisance has been taken of any health and safety implications in respect of rest breaks.

10. Daily Rest

Except in circumstances of pressing operational demands or the interruption of a period of rest while on call, it is agreed that an employee should enjoy a period of not less than 11 consecutive hours rest in a 24 hour period. Where this cannot be provided, the Working Time Regulations allow for compensatory rest to be provided. Compensatory rest is covered in Paragraph 12 of this agreement.

11. Weekly Rest

The seven day period shall, for the purposes of Regulation 11 Working Time Regulations, commence at 07.00 hours on Monday of each week.

The Force day will consist of a period of 24 hours commencing at 0700hrs.

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The Chief Constable may fix different times in relation to different groups of constables, and in doing so must have regard to the views of the ASPS Executive Committee. A list of constables working a different force day will be reviewed not less than every three months.

Whilst the Working Time Regulations only require the employer to provide 2 uninterrupted rest periods each of not less than 24 hours in each 14 day period, it is agreed that the provisions of the Police Service of Scotland Regulations 2013, being significantly better, prevail over Working Time Regulations and that two rest days will be provided in respect of each week. This will be calculated over the 17 week reference period.

Where an officer is required to work on a rest day then they will be entitled to another rest day which should be actively managed from the date of the agreement by both the individual and the organisation in line with the following principles:

- As the originally rostered rest day would have been a period of rest, if not granted, it should be compensated as close to the cancelled day as is reasonably practicable.
- In the first instance, it should be re-rostered within 4 days to another working day not more than 17 weeks after the duty worked however consideration should be given to the wishes of individual officers in allocating re-rostered rest days.
- As per Police Regulations, there is flexibility for these rest days to be taken within a year for superintending ranks.
- There is no provision within Police Regulations for rest days to be taken beyond a year and once the rest day has been re-rostered it should not be moved again to a date outwith that period.

It is recognised that the role performed by superintending ranks can provide limited opportunities to re-roster rest days during the reference period so it is agreed that up to 5 rest days over a year old can be maintained. The balance of rest days more than a year old at the time of agreement will require to be gradually reduced and, subject to ongoing monitoring and review in line with the agreed implementation plan and evidence of active management from both sides, officers will be able to maintain no more than 5 rest days over a year old from April 2023.

12. Compensatory Rest

There may be occasions where, in the event of an operational demand, an employee has been unable to receive their normal entitlement to daily or weekly rest under Working Time Regulations. Wherever possible every attempt will be made to allow an equivalent period of compensatory rest (e.g. deferring start and end time of next consecutive period of rostered duty.)

Compensatory rest may form part of the existing rest periods (which are in excess of the minimum requirements of the Working Time Regulations).

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13. Duty Roster

A duty roster will be published not less than one month before the date on which it is due to come into effect. The duty roster shall, from the date of implementation and for a continual 3 month period thereafter, provide details of the following

- Those days being rest days.
- Those days being public holidays.
- The times at which the employee's scheduled daily periods of duty (rostered shifts for employees working variable shift arrangements and for part time employees) are to begin and end.

Once published no changes shall be made to the duty roster other than in line with regulations.

In addition to the continual 3 month detailed duty roster, the roster shall also detail the indicative rest day pattern for employees for a further period of not less than 9 months.

The recognised publication medium for rosters will be the SCoPE system.

14. Rostered Hours

The working week for superintending ranks will be 40 hours.

It is agreed that the default working week will comprise of 5 periods of 8 hours duration, however this is subject to agile or flexible working arrangements.

The standard shift pattern applied to superintending ranks on the Duty Management System will be Monday to Friday, 0800 to 1600.

Alternative start times can apply with the express agreement of the affected officer.

15. Annual Leave

All superintending ranks will have their annual leave calculated in hours, during the lifetime of this workforce agreement.

For the purposes of calculation of annual leave the number of days leave as intimated as due to the employee in Annex 12, Regulation 25 Police Service of Scotland Regulations 2013 will be multiplied by 8 and the resultant figure will indicate the number of hours leave to which the employee is due. No more than 3 days of annual leave can be taken as half days.

The annual leave year will be the 12 month period as set out by the Chief Constable. Paid annual leave entitlement will be calculated in accordance with Police Service of Scotland Regulations 2013 and Determinations. For employees who work part time, their entitlement will be on a pro rata basis.

Annual leave will be administered to ensure compliance with the Working Time Regulations, and the Chief Constable may require an employee to take leave on particular dates.

16. Public Holidays

A rostered tour of duty on a public holiday will be not less than 6 hours.

17. On-Call

"On-call" is voluntary and a police officer will only be asked to undertake an occasion of "on-call" if he or she performs a role to which there is an attached "on-call" requirement. Where a role does not carry an "on-call" requirement, unless in exceptional circumstances, no police officer will be placed "on-call".

A role must only be designated as containing an "on-call" requirement where it is critical that a police officer is required to be available in order to respond to unforeseen events. Only roles designated by the Chief Constable will contain an on call requirement, having been consulted and agreed with the ASPS Executive Committee. A thorough evaluation must be carried out of the operational need to place police officers "on-call" to ensure "on-call arrangements can be justified and kept to a minimum.

In those roles which do contain an "on-call" requirement, the burden of undertaking "on-call" should not be placed disproportionately on any particular group of officers. All applicants to the rank of superintendent should require to commit to being trained at the earliest opportunity in either firearms or any such other specialism as defined by the Chief Constable in order to encourage an equitable spread of responsibilities and opportunities.

Notwithstanding individual, health or caring requirements, ASPS will encourage all members to undertake "on-call" responsibilities in order to provide a service to our communities and support colleagues. It is agreed that all officers undertaking on call duties will be adequately trained and supported.

Although certain roles will be subject to a greater likelihood to be recalled to duty, where there is a foreseeable or predetermined operational need, the Service should, as far as practical, provide a suitable resilience capability within the relevant roles without the need to place police officers "on-call". Planned duty rosters and an "on-call" rota must be produced and published for every three month rolling period.

No more than 7 days of on-call duty should be rostered in an agreed period, unless exceptional circumstances prevail, and no more than 5 consecutive days on-call duty should be rostered at a time. The agreed period should range from a maximum of 7 days in every 6 weeks to a minimum of 7 days in every 12 weeks. In terms of the maximum agreed period, it is recognised that there may be exceptions in highly specialised areas but there should be a management plan in place to minimise such requirements.

The requirements of the Working Time Regulations must be complied with. Police officers should be given their entitlements to uninterrupted daily and weekly rest and, where appropriate, the limits on night workers' working hours must be complied with. The significant commitment made by undertaking on-call duties is recognised and, in relation to daily and weekly rest, police officers must know in advance that their periods will not be interrupted, unless due to exigencies of duty.

The requirement for police officers to perform "on-call" during their rest days or public holidays should be kept to a minimum. Police officers will not be asked to perform "on-call" whilst on an annual leave day or during a period of annual leave.

It is agreed that where an officer of the superintending ranks is required to perform duty on a rest day then it will become a working day. Similarly, where an officer agrees with their line manager to work on a rest day then it will also become a working day.

Officers who carry out a period of on call, and who are required to work on rest days during that period, should ensure that they have an appropriate period of compensatory rest following their cycle to ensure compliance with Working Time Regulations. Compensatory rest may form part of the existing rest periods (which are in excess of the minimum requirements of the Working Time Regulations). Weekly rest is covered in Paragraph 11 of this agreement.

It is agreed that all officers subject to this agreement are required to record their working time and it is agreed that the service will put in place arrangements for monitoring working time.

18. British Summer Time

At the start of British Summer Time (BST), officers rostered on a tour of duty identified to end after 0100 hours will have the time at which their tour of duty is rostered to begin advanced by one hour to ensure the correct number of rostered hours are worked.

At the end of BST, officers rostered on a tour of duty identified to end after 0200 hours, will have the time at which their tour of duty is rostered to begin delayed by one hour to ensure the correct rostered hours are worked.

19. Other Employment, Business Activities and Voluntary Work

It is agreed that time spent in other employment, business interest and voluntary work may constitute working time as defined by the Working Time Regulations and as such will need to be taken into consideration when calculating compliance with the weekly working limits.

It is agreed that employees involved in activities referred to above shall notify the Police Service of Scotland and of such commitments. Such information received will be assessed to ensure continuing compliance or the need for any modifications and thereafter stored securely in the individual's file. Any modifications will be subject to the agreement of People and Development and the employee and will be recorded in the employee's personnel file.

20. Agile and Flexible Working

The definition of the 40 hour working week for superintending ranks should not only break down barriers to flexibility within the workplace but would also help the superintending ranks within Police Scotland to lead by example in terms of flexible working. Superintending ranks may wish to consider their current working hours and have a pattern applied to their post which reflects their business needs accurately and facilitates agile and flexible working.

21. Exemptions and Modifications

The nature of the duties carried out by police officers may mean that exceptionally there may be occasions where the provisions of the Working Time Regulations cannot reasonably be complied with. Any such exceptions, however, should be instigated to provide short-term solutions to immediate policing demands and not used as a blanket exemption from the provisions of the Working Time Regulations.

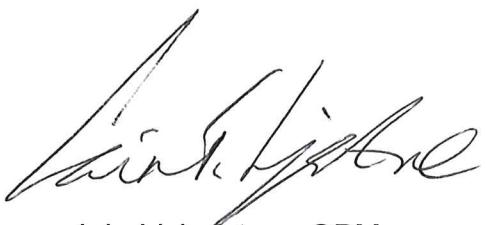
22. Compliance

The above arrangements comply with the provisions of the Working Time Regulations 1998 and the Health and Safety at Work Act 1974 and Regulations made there under.

23. Review

It is understood that a review group chaired by a member of the Force Executive, shall meet not less than every 3 months to monitor and review best practice in the implementation and ongoing use of all and any working arrangements that fall under the terms of this agreement.

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Iain Livingstone QPM
Chief Constable
The Police Service of Scotland



William Carle
President
Association of Scottish Police
Superintendents

Date: 12 March 2021

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