



# **A guide to negotiating on shiftwork**

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# 1. INTRODUCTION

This guide is intended to help branches negotiate on key issues facing shiftworkers. With around four million people employed as shiftworkers in the UK, making up around 14% of the total workforce, the terms of shiftworking can form an important issue for many UNISON members

Whereas once shiftworking was mainly a feature of essential services which needed to run round the clock, such as health, transport and communications, the demands of continuous production and increasing expectations of 24/7 access to services means that workers in a growing number of sectors and occupations are working shifts.

It is hoped that branches will use this guide to ensure that shift patterns are developed to meet the needs of workers, not just employers, and that the payments given to shiftworkers adequately reflect the disruption to lives that comes from working non-standard hours.

# 2. SHIFT SYSTEMS

The table below shows the most common shift systems worked by employees. The most frequently worked shift patterns for both men and women is a two-shift system involving an early / late shift or double day shift. The most significant differences in terms of gender are that women are more likely than men to work evening or twilight shifts while men are more likely to work “sometimes nights / sometimes days.”

Types of shift pattern worked by shift workers in the UK			
Type of shiftwork	All %	Men %	Women %
Two-shift system early/late or double day	28	26	30
Three-shift system	11	11	11
Sometimes nights sometimes days	14	15	12
Night shifts	8	9	8
Evening or twilight shifts	5	4	6
Continental shifts	2	3	1
Split shifts	4	4	5
Morning shifts	3	3	3
Weekend shifts	2	1	2
Other types of shiftwork	24	24	24

Source: Labour Force Survey 2011

The characteristics of these types of shift are set out below

**Double day/Two shift** - Usually comprise two successive shifts (typically 6am-2pm followed by 2pm-10pm) – often known as “earlies” and “lates.” Shifts are frequently alternated weekly or over longer intervals.

**Three shift** - An extra (night) shift is added to the earlies and lates in a double-day shift system giving three rotating shifts (typically 6am-2pm, 2pm-10pm and 10pm-6am). Shifts generally rotate on a weekly basis.

**Night shift** - Typically 10pm-6am. Some employees work nights as part of a three shift or continuous shift working arrangement while others may work permanent nights.

**Evening/Twilight shift** - Usually a short shift worked in the evenings (typically 5pm-9pm) and frequently utilised for cleaners.

**Continental shift** - A type of continuous shiftworking characterised by fast shift rotation e.g. shifts may be worked on a “3-2-2” pattern so that no shift is worked for more than three days. Blocks of rest days are worked into the shift cycle.

**Split shifts** - A shift that is “split” into two parts so that a worker may for example work the first part of the shift between 6am and 10am, while the latter takes place between 4pm and 8pm. Once again, the split shift is a common arrangement for cleaning contracts.

**Morning shift** - A shift typically falling in the 6am-2pm “early” slot.

**Weekend shift** - A shift typically taking place across two days (Saturday and Sunday) or three days (Friday, Saturday and Sunday).

Other important terms for an understanding of shiftworking are set out below.

**Rotation** - A term referring to the speed with which workers change shifts and the direction of movement. For example, a “forward rotating, week-about, three-shift pattern” would involve working a week of mornings, a week of afternoons and a week of nights. Some shift patterns break with the forward rotation pattern, for example the shift rotation may be mornings/nights/afternoons. This is sometimes popular with employees as it produces a longer break between the end of the morning shift (say 2pm) and the start of the night shift (10pm).

**Semi-continuous shift working** - A term used to describe 24-hour cover over five (or six) days a week, usually by means of a three-shift system.

**Continuous shifts** - A term used to describe 24-hour cover over seven days a week.

**12-hour shifts** - A 12-hour shift is sometimes used instead of the more traditional eight-hour shift arrangement. These can be popular with employees as they involve working fewer shifts over the cycle, but beware, the health and safety dangers of longer shifts are set below.

**Annual hours** - A working pattern that calculates working time on an annual rather than a weekly basis.

**Self-rostering** - A working system that enables employees to have some control over which shifts they work, but also presents drawbacks that are explored later in this guide.

### **3. PAYMENTS**

#### **3.1 SHIFT PREMIA**

Most shiftworkers receive a premium payment for working shifts. These payments compensate workers for the unsociable aspects of shift work and the disruption that shiftworking causes to employees' lives. At the same time, premium payments make shiftwork more attractive and therefore ensure that there is sufficient labour to cover the work.

The size of the shift premium is usually linked to the relative inconvenience of a particular shift pattern, reflecting, for example, the time when the shifts are worked, shift length, whether weekend and/or night work is involved and the speed of rotation.

The premia payable for shiftworking can either be expressed as a cash sum or as an agreed percentage of basic pay. Where it is a cash sum, it may be paid either at a flat rate for all workers (in which case its value is proportionately higher for the lower paid) or as a defined rate for each grade.

The XpertHR survey of shift premia found the following norms for payments:

- Across all types of premia, the most common addition to the standard rate stood at between 20% and 30%;
- For two-shift / double day working, the range of additional payments stood between 5% and 25%;
- Where organisations pay flat hourly rates, the median addition was £1.16 per hour, but night working attracted additional rates ranging from £1.63 to £12.50 an hour;
- Annual cash allowances for continuous 12-hour shift payments varied from £2,935 to £7,600;
- Annual cash allowances for two-shift, permanent nights and three shift arrangements typically attracted between £2,000 and £5,000 a year.

It is important to note that part-time workers are entitled to the same hourly rate, including shift premia, as full-time workers.

### 3.2 OVERTIME

Shifts often throw up the question of whether both overtime and shift premia are paid for the same period of work. Where annual hours arrangements are in place, overtime often does not attract a premium as an element of pre-paid overtime is frequently incorporated into the annual salary. However, in general UNISON negotiators should seek payment of both overtime and shift premia.

### 3.3 STANDBY AND CALL-OUT PAYMENTS

In some circumstances, employees do not conduct shift work on a regular basis but when called upon and therefore negotiators can seek payment for any period that an employee spends on standby ready to be called out, along with payment for the call-out itself.

Most organisations tend to compensate staff for call-outs by guaranteeing overtime payment for a minimum number of hours – even if the employee actually works for a shorter period of time.

The 2013 Incomes Data Services survey of call-out payments found that payment for three or four hours' minimum overtime is the most common practice among organisations and examples of standby rates per session/day are given below.

Organisation	Weekdays (Mon–Fri)	Weekends (Sat–Sun)	Public holidays
British Airways	£1.87 an hour	£2.24 an hour	£3.52 an hour
BAA	£15.59	£44.92	£58.75
Hampshire County Council	£26.17	£39.26	£52.34
Highways Agency	£11.93	£34.18	£42.90
Norfolk County Council	£15	£30	£30/£60
Sellafield	£14.95 (24-hours); £10.47 (night only)	£29.95	£37.42
South West Water	£9.94	£21.28 (Saturday only)	£28.80 (including Sunday)
The Robert Gordon University	£33.23	£33.23 (Saturday only)	£55.39 (including Sunday)
United Utilities	£14	£22.75	£50
Western Power Distribution	£36.59 (Monday to Thursday)	£73.18 (Friday to Sunday)	£73.18 (rising to £111.30 on Christmas Eve/Day, New Year Eve/Day)

## 4. WORKING ARRANGEMENTS

### 4.1 ANNUALISED HOURS

Whilst traditionally shift premia have reflected the degree of inconvenience and disruption experienced by shiftworkers, there have been moves by some organisations to move away from specific payments for shift working. Instead, employers have incorporated an element of compensation into basic salaries to reflect the fact that workers are required to work shifts.

This has particularly, though not exclusively, occurred in organisations where annual hours' arrangements have replaced the standard basic working week.

As the term suggests, annual hours' contracts involve the employee being contracted to work a specific number of hours each year rather on a weekly basis. Manual workers and shiftworkers are more likely to be on annual hours' contracts than other groups of workers.

Annual hours contracts may seem attractive to staff if packaged as part of a flexible working or "Work-Life Balance" initiative as a means of giving staff more control over when they work. However, in practice they are generally employer-led and frequently a mechanism by which some employers seek to reduce their costs by reducing or removing payments such as shift premia, overtime pay, standby pay and call-out charges. At worst, annual hours contracts may involve workers doing longer hours, being required to come in at times that don't suit them, and receiving lower financial compensation than might have been available with a traditional weekly hours contract. They therefore need to be approached with caution by UNISON branches.

A problem that has arisen in many organisations with annual hours' arrangements is the issue of non-rostered hours. Often, the number of hours rostered is less than the total number of annual hours. Sometimes these hours are used to cover situations like training, but generally staff are required to make up the remaining hours at times when extra staff are needed, eg to cover annual leave, staff sickness or busy periods. These hours are sometimes called "payback hours," "reserve hours," "spare hours," "bank" or "commitment" hours.

Many organisations use disciplinary measures against staff who do not make themselves available to work these commitment hours and there are particular difficulties where staff are required to work at short notice. This is the opposite of family friendly working. Ideally, commitment hours should be used for predictable labour needs and training rather than emergency cover.

While there may be drawbacks to annual hours' arrangement, clearly they can sometimes be a useful part of an overall package of family friendly measures and there is clearly scope for bargaining on annual hours. The bottom line in any agreement must be income protection – no-one should be worse off and no-one should be compelled to move from a weekly hours to an annual hours' contract.

The introduction of annual hours' arrangements has often been accompanied by a cut in working time as a trade-off for the benefits such contracts give employers.

Therefore, the key negotiating issues around annual hours are likely to lie in:

- The total number of annual hours to be worked;
- The proportion of rostered hours to “commitment” hours;
- Notice arrangements for both rostered and “commitment” hours and arrangements for monitoring those hours;
- Whether “commitment” hours attract premium payments;
- Overtime payments for hours worked above the annual commitment.

It needs to be recognised that staff with dependants may have particular difficulties with some aspects of annual hours’ contracts and measures are needed to deal with those difficulties.

There also needs to be agreement over how to deal with unworked or overworked hours where an employee leaves the organisation.

Where annualised hours arrangements exist they need to comply with the *Working Time Regulations* in respect of the reference period for the average 48-hour week and other limits set by the Regulations.

## **4.2 ZERO HOURS**

Over recent years, shiftwork has been affected by the increasing numbers of staff who have been employed on zero hours contracts under which they agree to make themselves available for work at certain times but the employer does not guarantee any hours and only pays for those hours worked.

The implications of these contracts are set out in a separate factsheet on the UNISON website at [Zero Hours Factsheet](#)

## **4.3 SELF-ROSTERING**

The idea behind self-rostering is that staff can specify which shifts they would like to work as well as those times when they are not available. Cover must be maintained and it is up to all staff on a team or departmental basis to ensure that this occurs.

Self-rostering can be seen as family friendly and give more flexibility to staff. However, a study of its application in the NHS have found that it can also give rise to problems such as staff shortages that create difficulties in flexibility and skill mix.

The study suggests that, under the right conditions and for some workers, self-rostering has the potential to deliver some control over workload and working time. However, in some cases there can be negative consequences and in others it is simply inappropriate.

Therefore, the introduction of self-rostering should be within a framework which provides safeguards for workers covering the following points:

- Consultation and involvement of unions and workers;
- Analysis of the current workforce via an audit/survey to identify make-up, skills, specialisms, skill/mix and needs, etc;
- Recognition that self-rostering will only properly work where there are high staffing levels;
- Compliance with the Working Time Regulations and health and safety best practice;
- Maintaining income – negotiators need to ensure that staff are not losing out on forms of income such as overtime payments;
- Training and information – staff need to be fully informed and trained on new systems;
- Audit / pilot – schemes should be piloted and evaluated.

The study also highlighted the fact that many “traditional” ways of working could in practice provide flexibility e.g. where shift swapping among staff is practised informally and accepted by management, this may well provide as much flexibility as possible given the local situation.

## 5. HEALTH AND SAFETY

Shiftwork, especially nightwork, is known to have a negative impact on health. Extensive research has shown that shiftwork disrupts the body’s “circadian rhythms” - that is, its daily cycle. It also affects the quality and quantity of sleep a person gets and disrupts family and social life.

This impact on the health of the shiftworker, can potentially cause:

- tiredness;
- mental stress;
- cardio-vascular diseases;
- gastro-intestinal disorders;
- menstrual disorders;
- reproductive system dysfunction;
- poor performance;
- increased accidents.

Although there is no conclusive evidence that shift working is especially bad for older workers, there is evidence that the more years spent shiftworking the greater the impact on ill health. Similarly, among women, studies<sup>1</sup> have suggested that long-term night-shift working doubles the chance of developing breast cancer.

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<sup>1</sup> Grundy A, Richardson H, Burstyn I, et al, Increased risk of breast cancer associated with long-term shift work in Canada, Occupational and Environmental Medicine.



A review of research on shiftwork for the Health and Safety Executive has found that:

- Shiftworkers tend to die younger than day workers, with prolonged lack of sleep seen as the most likely cause;
- Sleep deprivation causes a range of problems and most shiftworkers find it difficult to catch up on sleep, particularly if they have family responsibilities;
- Tiredness is worse on night and early morning shifts, accidents are more likely to occur during nightshifts and people are least alert in the early hours of the morning, around 3am.
- Mistakes are more likely when there are no proper breaks, low staffing levels, longer shifts (over eight hours) or work is boring and repetitive.
- Accidents can also happen outside of work - driver fatigue is estimated to play a significant part in up to a quarter of all accidents on motorways and fast roads. While sleep-related accidents are more likely to result in death or serious injuries than other types of road accident;
- Shiftworkers suffer more digestive disorders and ulcers due to a variety of causes such as smoking, drinking, stress and irregular meal times. Problems are increased where there are no facilities providing proper meals for shiftworkers. Sleep deprivation can lead to difficulties in the body's ability to regulate blood sugar levels;
- Nervous disorders, including anxiety and depression, are also more common among shiftworkers. Causes are likely to be upsets to the "circadian rhythm" together with lack of canteen facilities, recreation or social life;
- Shiftworkers are 40% more likely to suffer heart disease than day workers;

The report concludes by recommending that shiftworkers over 40 are offered regular health checks.

## 5.1 LEGAL PROTECTIONS

All employers have a general duty under *Section 2* of the *Health and Safety at Work Act 1974* to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees.

This means that they cannot normally require people to work excessive hours or unsuitable shift patterns likely to lead to ill health or accidents caused by fatigue. Work schedules should also allow for adequate rest periods.

Health and Safety Executive (HSE) guidance on *Working Hours* emphasises the importance of providing:

- Adequate supervision for all shifts;
- Alternative days off where weekends, bank holidays etc are worked;
- Access to refreshment facilities such as canteens;
- Access to training for all employees (the needs of night workers are often overlooked);
- Consideration of the needs of employees with domestic responsibilities;
- Consideration of transport needs.

## 5.2 RISK ASSESSMENTS

Under the *Management of Health and Safety at Work Regulations 1999 (Management Regulations)* employers must carry out a suitable and sufficient risk assessment in the workplace to identify potential hazards and take measures to eliminate or control them. This would include any risks associated with shiftwork.

Regulation 6 also requires employers to carry out health surveillance of employees if the risk assessment has shown this to be necessary.

Regulation 16 says that where there are women of childbearing age in the workforce any risk assessment must take account of how hazards may affect the health and safety of new or expectant mothers.

Union reps should also be mindful of the health and safety implications of travelling to and from work at unusual hours, particularly for female staff, and press consideration of these issues on the employer.

## 5.3 STRESS

The risk assessment required under the *Management Regulations* includes the risks of work-related stress. HSE guidance on *stress at work* states that work schedules that are inflexible and over-demanding can trigger or worsen work-related stress. The guidance states that flexible work schedules and planned and agreed work hours help to reduce stress. This means that employees should not be expected to stay late, get in early, do overtime or change shifts at short notice or without their agreement.

## 5.4 HOURS OF WORK

The European Working Time Directive came into force in the UK in 1998 and set out the basic minimum rights below:

- A working time limit of 48 hours a week;
- A minimum rest break of 20 minutes during any day or shift that exceeds six hours;
- A minimum rest period of 11 hours between the end of one working day or shift and the beginning of the next (not including the day of the shift changeover);
- A minimum weekly rest period of 24 hours, which can be averaged over two weeks.

The 48 hour limit can be averaged out over a 17 week period and the 11 hours consecutive rest can be varied, as long as compensatory rest is given. For example, a break of 6 hours between shifts can be compensated with a subsequent break of 16 hours between shifts.

In addition, the UK has an opt-out from the 48 hour working time limit which allows individual workers to sign away this right on a voluntary basis.

Detailed bargaining information on the regulations are provided in the documents below, which includes specific advice for shift workers on all the main dimensions of the regulations, including the need to guard against a culture of “opting out” that damages the health and safety of staff.

[Working Time Directive – Implications for on-call and sleeping-in](#)

[Working Time Regulations Negotiators Guidance](#)

## **5.5 SAFETY REPS**

Hours of work and shift patterns are a health and safety issue. Branches should ensure that UNISON safety reps are always involved when changes to shifts or hours of work are being proposed.

Union safety reps have extensive rights to consultation and investigation of hazards. Safety reps can use their legal rights to investigate the health and safety implications of shiftwork and raise these with management. A survey of the membership could be one way of doing this.

Safety reps could also ask management for accident and sickness records to see if there are higher rates of accidents or sickness on any particular shift.

## **5.6 SHIFTWORK AGREEMENTS**

When negotiating shiftwork agreements, the following health and safety issues should be born in mind:

- Avoid rapidly rotating shifts that are difficult to adapt to physically;
- Some people prefer permanent night shifts. Employing people who choose to work regular nights limits the total number of people exposed to the adverse effects of night work and working nights only is preferable to the body in comparison to changing shifts. However, workers should be made aware of the possible negative consequences of prolonged night work;
- Shift systems that maximise the number of weekends off for staff are generally preferred;
- Where rotating shifts are worked it is important to provide time off between finishing nights and starting mornings;
- The morning shift should not start too early (the earlier it starts the more tiring it tends to be);
- Overlaps between shifts are important to ensure that the incoming shift is fully briefed. The shorter the changeover period, the greater the risk that vital information is not passed on;
- Shiftwork is likely to be less stressful when it is flexible to employees' needs (e.g. being able to swap shifts);

- Split shifts should be avoided;
- Ensure that members are consulted before new shift patterns are agreed. New patterns should be subject to a trial period with a review at the end where members are consulted again;
- Shift patterns should be predictable and staff should know which shift they will be working well in advance. This is particularly important for those with caring responsibilities. Management should not expect staff to change shifts or work extra shifts at short notice;
- Night workers should have access to the same facilities as day workers. This includes hot meals and drinks, rest areas, first aid and accident reporting arrangements;
- Regular rest and meal breaks are important on any shift but especially on night and early morning shifts;
- Safe travel arrangements should be in place for workers travelling to and from work late at night or early in the morning;
- Night workers should have the same access to training as other workers;
- When negotiating time off in lieu for health and safety training or meetings, remember to allow rest time for shift workers before they go back to work;
- Agreements should be flexible to cover all shifts.

## 6. EQUALITY ISSUES

As with all other working practices, any shift working arrangements must comply with the law, including discrimination law contained in the 2010 Equality Act, which includes a specific Public Sector Equality Duty. This duty means that a public sector body has to show that they have given consideration to the impact of working patterns on any of the “protected characteristics,” which cover race, disability, pregnancy / maternity, age, religion / belief, sex, sexual orientation and gender reassignment.

Union reps should press the case that the most rigorous way to consider this impact is through an equal impact assessment.

The general equality duty applies to named organisations in the Equality Act itself. This includes most public sector employers such as healthcare trusts, local councils, schools and government departments. However, it is important to understand that these bodies cannot outsource their responsibilities to meet the general duty and remain liable for enforcement even if they have contracted out part of their work.

In Northern Ireland, Section 75 of the Northern Ireland Act 1998 similarly places a statutory obligation on public authorities in carrying out their various functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity.

UNISON’s full range of equality materials, setting out the implications of the Equality Act and other legislation in detail can be found on the UNISON website at [Equality Duties](#)

However, the most significant equality issues that are most specific to shiftworkers often revolve around whether working patterns are indirectly discriminatory to women with caring responsibilities.. Rotating shifts that vary from day to day or week to week, a requirement to work overtime or vary a shift at short

notice, as well as shifts with late finishing hours (and possibly dangerous travel home), may be open to challenge on this basis.

This type of situation was illustrated by the case of the *Chief Constable of Avon & Somerset Constabulary v Chew*. In that case, the Employment Appeal Tribunal upheld the tribunal's ruling that the requirement for a female police officer to adhere to the shift patterns required by the Constabulary's part-time working policy was discriminatory, as fewer women than men could comply with the requirement.

Under the *Equality Act 2010*, men and women should have equal access to shift pay and other premia payments and equal average payments where these apply.

*The Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000* make it unlawful to treat part-time workers less favourably in their terms and conditions of employment. Under the regulations, part-time workers are entitled to the same hourly rate of pay as comparable full-time workers, including unsocial hours payments, weekend and other shift premia.

If you believe that shift patterns may be discriminatory, please contact your regional officer for legal advice.

## **7. ORGANISING SHIFTWORKERS**

It is essential that shiftworkers play a key role in organising around the issues of importance to them. Sometimes this may mean that we need to try the kind of different approaches outlined below, which adapt organising methods to circumstances where employees are not at work on the standard "nine to five" cycle.

- Workplace visits at different times - Night shiftworkers and those who work early mornings often really appreciate seeing people from the union office late at night or early in the morning. Simply showing up and talking to them if they work in an accessible place will put them in a receptive and welcoming mood.
- Environments such as care homes and hospitals will sometimes be quieter at night and therefore afford greater time for activists to discuss issues informally with staff over a cup of tea and a chat. It is also less likely that there will be senior managers around, so people might feel more comfortable in raising issues;
- Because of the difficulty for some shiftworkers in communicating with the union office, it is even more important than usual that we encourage people to become workplace contacts or stewards so that we can keep in touch with them and their colleagues;
- When making contact with people on early morning shifts who are starting at 6am or even earlier, you might consider turning up with hot tea, coffee and breakfast bars. But be aware, people who start work this early often arrive with only a few minutes to spare,

so you might only have a few moments in which to grab their attention and give them something to think about.

- Sometimes shifts will be mainly composed of people from a particular background or community. This might influence what language you want to provide materials in and the type issues that the workers see as their priorities.
- In the health service, many clinical staff will work a 12-hour shift pattern, which will often mean that they are not going to want to talk to a union rep at the beginning or end of their shift as they may resent each additional minute they have to spend at work. However, they should have small breaks during the day, so it's worth targeting those times. A further tactic is to build a relationship with their manager or training / education department and find out when they have team meetings or training sessions to see if a union session can be added to the agenda - you will be surprised at how often they agree!
- Keeping in touch with shiftworkers and helping them communicate with each other can be harder than with other members because of their hours, so it is useful to think of other ways for helping them keep in touch. Techniques could include social media, email, texting or Skype – think outside the box.

If you have any questions relating to organising in this or any other area of work – drop an email to UNISON's Strategic Organising Unit at [strategicorganising@unison.co.uk](mailto:strategicorganising@unison.co.uk)