

Response from the Rotherham NHS Foundation Trust

19 June 2009

We will probably submit further views, but an immediate issue of concern will be where the hours worked outside of those contracted would result in a breach of the European Working Time Directive, or would result in the individual not receiving a minimum 11 hours of rest in any 24 hour period (per the EU Directive), and the liability of the main employer in the event of consequent injury or death of a patient (or others) arising from failure to comply with this legal requirement. It is therefore vital that any NCH work provided to another organisation is declared to the main employer, which may require (a) the individual concerned to "opt out" of the EWT Directive on working hours and (b) render the individual liable to assessment of capability in the event that concerns arise regarding fitness to undertake clinical work due to tiredness.

Thanks

Brian James

Chief Executive

The Rotherham NHS Foundation Trust