

Sleeping in, losing out: a survey of care staff on sleep-in shifts

Introduction

Sleep-in shifts are a regular feature of working life for thousands of care staff across the country.

Many people in residential homes, those living independently but requiring support, or receiving care in their own homes have significant night-time care needs, especially those who are vulnerable. They may have to access medication or even need medical treatment, be helped to the toilet or be calmed down if distressed.

These responsibilities are carried out by care staff who remain during the night at their place of work. During their shifts, care workers are allowed to sleep if they can, but must be 'listening out' in case they are needed. They are often fulfilling a legal responsibility placed on their employer to have staff on site. Under the terms of their contracts, sleep-in staff would face disciplinary action if they left the premises during a sleep-in.

The question of whether or not these shifts should be defined as 'work', for the purposes of calculating compliance with the national minimum wage, has been the subject of controversy ever since 1999. This was when a legal wage was first introduced in an attempt to create a basic standard of living.

UNISON has always argued that sleep-in shifts should be defined as work, and attract at least an hourly national minimum rate. This is because staff are required to be in a workplace, are not able to leave, and have to perform considerable caring responsibilities throughout the night. Yet it has become common practice in the care industry to pay single lump sum payments for sleep-ins, typically £25-30 for a 10-hour shift.

Until recently, government guidance to employers stated that sleep-ins should be classed as 'work.' This followed numerous judgments and tribunal decisions, resulting from legal challenges, including those by UNISON, to define these shifts as 'working time'.

As a result, many local authorities increased funding for care contracts from April 2017. This ensured care providers could make 'top up' payments to sleep-in staff, although the government has provided no extra funding to meet this extra spending need.

However, the issue of back pay for sleep-in shift work has not been addressed. Care staff are among the lowest paid and most undervalued employees in the country, and been subjected to poverty wages and exploitative employment practices for many years.

The treatment of sleep-in staff contrasts for example with that of security guards who are paid to look after office buildings throughout the night. They receive an hourly rate for their entire shift, regardless of whether they are able to grab a few minutes of sleep or not.

UNISON is campaigning for their work to be properly recognised with legal minimum payments. Employers have estimated the cost of back payments to be £400 million for sleep-in hours that staff have worked but not been paid for at national minimum wage rates. UNISON wants the government to fund the care sector adequately to ensure these back payments can be made. But ministers have repeatedly refused to act.

Instead, they introduced the Social Care Compliance Scheme, a voluntary system that has now ended but gave care providers up to a year to identify what they owe to workers, supported by advice from HM Revenue and Customs (HMRC).

This policy has created deep uncertainty in the sector, and left sleep-in staff without the back pay they deserve. Also of huge concern is that some employers have abandoned payments to ensure staff are receiving the national minimum wage. This will have a serious and dramatic impact on the futures of care workers. Their wages will plummet resulting in an exodus of care staff to better paid jobs.

The care sector is already chronically underfunded, and support for thousands of vulnerable individuals could be under threat if workers leave because they are undervalued.

About the survey

The aim of this survey was to get an accurate picture of the conditions that care staff face while on sleep-in shifts. It was carried out between 13 December 2018 and 11 January 2019, and completed by 3,360 respondents across the UK.

The majority who took part were supporting adults with a learning disability (84%) followed by adults with a mental health condition (53%) and with a physical disability (43%). Others were caring for children with mental, physical or learning issues (11%), or for adults recovering from surgical or other hospital treatment.

Summary of the findings

Personal safety

Three in ten (31%) respondents said their personal safety had been threatened during a sleep-in shift. This worrying situation appears to be aggravated by understaffing. Two-thirds (67%) of respondents said they were the only member of staff on site during their sleep-in shifts.

Below are some examples of the incidents care workers on sleep-in shifts have faced including attempted strangulation, being threatened with knives, punched, and bitten:

"I've had a knife to my throat. A 30 stone man attempted to crush me against a wall, and I survived a one-handed strangulation attempt."

"I've been bitten...punched, kicked, and made to follow those in my care around the streets past midnight."

"(I was) on my own when a service user was threatening me with a fire extinguisher, and trying to attack and kill me."

"[I was] punched by service user, then they tried to get to me after I had locked myself in office."

"When I was working a night shift, one of the people I support became violent, throwing a knife and threatening to throw a kettle of boiling water over another person they lived with."

"I was told by a service user that he was going to phone his family and if I didn't leave the building I'd be killed."

"I had a service user holding a large carving knife against her chest and threatening to kill herself, ...(it was) brought on by (the) GP stopping antidepressants. I had to deal with (the incident) calmly, removing the knife and all sharp or harmful objects from the service user, and stay awake with her all night because of the lack of support from my on-call manager, NHS and social services"

"Had threats of assault, stabbing, burning down the building, and a machete aimed towards my head, dealing with violent angry visitors."

Sleeping conditions and family life

Sleeping away from home has a negative effect on sleep-in staff. More than two in five (41%) reported feeling bad for not being there at night when their families need them, and the same percentage had missed out on family events as a result.

This situation is often made worse by inadequate, dirty, unsafe or even non-existent sleeping accommodation. More than one in ten (13%) of respondents said their sleeping facilities were unsuitable, and some (2%) had none at all. Sleeping in offices, on sofas or on dirty mattresses, and a lack of bathroom facilities, were among the issues highlighted by this survey:

"(I sleep) on the couch in an open plan lounge with no door, no privacy, and no protection. We have a client with challenging behaviour, who can come down while I am fast asleep. This has been going on for five years now."

"I sleep in the staff office in a single uncomfortable bed, the mattress is dirty and ripped."

"(I sleep somewhere that's) an office by day that's cramped and cluttered, cold in winter and too hot in summer. There's a small window and the walls have damp patches."

"Grotty facilities and no bathroom to wash or shower the following morning, often an issue as you will probably be doing another shift."

"Staff have had to bring in their own bedding, and one colleague actually went and bought a bed as the one provided was like nails."

"A 10ft by 8ft room that doubles as the (untidy) office. The bed is dirty and there are electrical points at the same level as the mattress ... No sink and I've been told we're not expected to shower in the morning, even though we may still be working till 11.30am."

"We sleep in the office. It's never cleaned properly and we can't open the window in the summer as there are files stacked on the windowsill."

"Not fit for purpose, can't sleep and still have to carry out my shift the next day. Also no toilet where the sleep-in room is. It's in the building across the car park and up three flights of stairs."

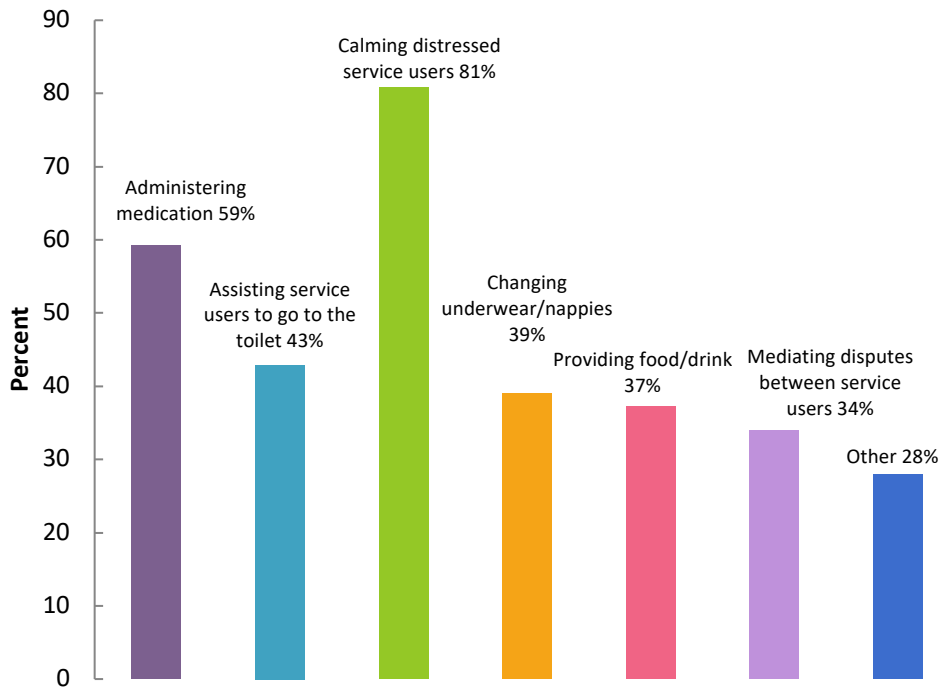
Workload

The survey also highlights the extent and breadth of activities staff are having to carry out during sleep-in shifts.

Two thirds (67%) said they felt exhausted most of the time with sleep-in shifts to blame, and more than seven in ten (72%) said they only got a couple of hours sleep per shift. The vast majority (92%) also said they were unable to leave their workplace during this time.

The type of care respondents said they carry out includes calming down distressed individuals (81%), administering medication (59%), and taking them to the toilet (43%):

Table: When you provide care during the night, which activities might you undertake?



Conclusion

Care workers carrying out sleep-in shifts fulfil a vital role. However, as this survey highlights, they are often exposed to dangerous, difficult and unpleasant working conditions, and are routinely left alone without the support of colleagues.

This raises serious questions for employers and the government about the security and wellbeing of care workers. UNISON believes that the safety and fair wages of care staff are at stake. These dedicated individuals are working hard to provide vital public services, without the protection and pay they deserve.

The results also demonstrate that staff are tasked with considerable caring responsibilities during sleep-in shifts. This further strengthens the argument that these shifts should be treated as 'working time' for the purposes of calculating national minimum wage.

UNISON is calling on the government to support care staff working sleep-in shifts by:

- Guaranteeing all staff carrying out overnight sleep-in shifts receive at least the national minimum wage for every hour they are at work¹, and fund all commissioners in the care sector properly.
- Funding the sleep-in shift back pay for the care sector which employers estimate to be £400 million. UNISON believes that work carried out in these conditions should have attracted at least the national minimum wage from the outset.

The union wants employers to protect and value sleep-in care staff by:

- Ensuring their safety including carrying out proper risk assessments. Care workers should also not be left alone at night when they feel under threat.
- Providing clean, secure and safe sleeping accommodation, and washing facilities.

¹ UNISON has won leave to appeal the case it lost at the Court of Appeal last summer. This judgment in favour of Mencap overturned a previous employment appeal tribunal ruling from April 2017.