

Agenda Item 4.1 Appendix 5

WORKING TIME POLICY

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Documents to read alongside this Policy	Flexible Working Policy Rostering Policy (for Nurses and Midwives) Guidelines for Combining Returning to Work and Breastfeeding
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When using this document please ensure that the version you are using is the most up to date either by checking on the UHB database for any new versions. If the review date has passed please contact the author.

OUT OF DATE POLICY DOCUMENTS MUST NOT BE RELIED ON

Cardiff and Vale University Health Board

Version Number	Date of Review Approved	Date Published	Summary of Amendments
UHB1			Shift Times and Meals Breaks Policy and Working Time Regulations Policy merged

WORKING TIME POLICY

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1. Introduction

The UHB is committed to the Health and Safety of all staff and to meeting its obligations under the Working Time Regulations (1998). The UHB recognises that working patterns can have an impact on the health and safety of staff, patients and visitors and therefore sets out the acceptable shift patterns and meal break requirements.

2. Policy Statement

The UHB acknowledges the importance of allowing staff to take reasonable breaks from their work during the working shift in order to ensure their own health and safety and well-being and those of their patients.

The UHB will endeavour aim to ensure that the arrangements introduced as a consequence of this policy do not discriminate against employees on the basis of the protected characteristics set out in the Equality Act 2010.

3. Scope

This policy applies to all staff, except for doctors and dentists where national arrangements apply. For the purposes of this policy, this includes permanent, temporary, bank and agency staff as well as honorary contract holders, secondees and volunteers.

This policy should be applied consistently across all sites and all staff. Staff of the same staff group should not have different application of breaks and shifts. If there is a service need to differentiate between work areas then this would have to be consulted with staff representatives and Workforce and OD, and documented appropriately.

4. Aim

The purpose of this policy is to ensure compliance with the principles of the Working Time Regulations and the safe working of all staff.

The policy sets out for managers and staff how to work within the regulations or within agreed derogations

5. Roles and Responsibilities

5.1 Managers Responsibilities

Managers are expected to ensure that staff work within the acceptable shift patterns and meal breaks requirements. Managers must implement this policy

and ensure that appropriate arrangements are put in place within Directorates/Departments to monitor compliance with the policy.

If there are occasions when it is not possible to comply with the provisions for rest periods set out in this policy (e.g. on-call, end of shift overtime), managers must record them for audit purposes and to enable regular review.

Due consideration should be given to any cultural or religious beliefs or practices which may impact on the timing of any breaks for particular members of staff. Due consideration should also be given to other individual circumstances such as reasonable adjustments agreed when an individual has a disability, or when staff choose to combine breastfeeding and returning to work.

5.2 Employee Responsibilities

Employees are expected to act responsibly and comply with the acceptable shift patterns and meal break requirements detailed in this policy.

Employees must notify their manager if they undertake secondary employment.

6 Definitions

Worker	<p>“Workers” are defined as anyone that the UHB:</p> <ul style="list-style-type: none">• has a duty to provide work for• controls when and how that work is done• supplies the tools and other equipment• pays tax and NI contributions (excluding those staff who are employed by another employer but for whom we act purely as paymaster)
Working Time	<p>Working Time is defined as any time an employee is working at the UHB’s disposal and carrying out activities or duties. Working time may therefore include:</p> <ul style="list-style-type: none">• Time at work regarded as normal working hours as determined by duty rotas, contracts of employment, etc• All hours worked outside the employee’s normal working day, overtime etc• Time spent whilst responding to a call during a period of on call• Time spent on behalf of the UHB at events

outside normal hours of work, e.g. careers events

- Time for training purposes, civic and public duties, health and safety and trade union duties.

Rest Break	This means an uninterrupted break that is taken during the working day/shift
Rest Period	This is a period which is not working time, other than a break or leave to which the worker is entitled.
Shift Work	This is a method of organising shifts whereby workers succeed each other at the same workstations according to a certain pattern including a rota, entailing the workers to work at different times over a given period of days or weeks.
Shift Worker	A worker whose work schedule is part of shift work
Unpaid Break	The unpaid break (otherwise referred to as a meal break, a rest break, lunch, a break) is an undisturbed break during which staff have a right to leave the workplace if they so wish, unless circumstances are exceptional in which case the break would be paid or be compensated for by granting equivalent compensatory rest.
Concessionary Break	A concessionary break (sometimes referred to as a tea break) is a less formal break which enables staff to have a drink or take a brief break from work. This break is paid and may therefore be disturbed if the needs of the service require this; in exceptional circumstances, it may not be possible to facilitate concessionary breaks at all.
Night Workers	A night worker is defined as someone who regularly works at least 3 hours between 11.00p.m. and 6.00 a.m.

7. Working Time Regulations

- 7.1 Staff will normally not be expected to work more than an average of 48 hours per week, calculated over a 17 week reference period. Staff may however, on a voluntary basis, choose to work more than the 48 hours average weekly limit. These staff members will be required to sign an Opt Out Agreement

(appendix 1) to indicate that they wish to be excluded from the maximum weekly working time provision.

The UHB or the member of staff can rescind this agreement at any time by giving seven days notice (in writing). Less notice will be considered in exceptional circumstances. If a member of staff wishes to opt back into working time protection they can use the template found at Appendix 2 or write a letter to their manager.

The manager is required to review with the staff member on an annual basis whether or not it is appropriate to continue to work more than the 48 hours average weekly limit. Occupational Health advice should be sought where relevant.

Where a member of staff chooses to work in excess of the limit, a [risk assessment](#) should be carried out to establish whether or not working in excess of the limit constitutes safe working arrangements. The UHB reserves the right to suspend or refuse an opt out agreement, if the UHB takes the view that the hours worked by the staff member(s) do not constitute safe working arrangements. The reasons for suspending/refusing an Opt-Out Agreement should be explained.

7.2 To allow flexibility, the Regulations allow the following derogations for Health Care Workers:

- Averaging period for 48-hour limit is 17 weeks.
- The 11 hours consecutive rest can be varied as long as compensatory rest is given, e.g. where it is impractical to change shift patterns, etc. or continuity of care is required. This compensatory rest is not to be taken in contracted hours – instead added on to other rest periods.

The UHB does require staff to be flexible at times of unforeseen circumstances, e.g. major incident or unforeseeable changes in activity. Under these circumstances where rest breaks may not be practicable, compensatory rest will be given at a later time

8. Shift Working

8.1 The Working Time Regulations state that a worker is entitled to the following rest periods and breaks:

- 24 hours in each 7 day period or this can be averaged out to 48 hours rest in each 14 day period.
- 11 hours consecutive rest between each working day (except where derogations apply, in which case compensatory rest should be given).

- A minimum of 20 minutes rest if working 6 hours or more.

These arrangements are minimum requirements and are not intended to replace locally agreed arrangements.

8.2 The UHB also recognises that working patterns have an impact on staff health and wellbeing and in consideration of this, all of the shift working patterns within the UHB should be based on the following:

8.2.1 Staff will be required to work a variety of shifts and shift patterns depending on service needs

8.2.2 All shifts over 6 hours must include a minimum period of 30 minutes unpaid break (20 minutes of which should be taken continuously)

8.2.3 Days off are usually taken together but can be mutually agreed otherwise

8.2.4 Staff should have a minimum of one weekend off per 4 week roster unless an alternative arrangement is agreed via the Flexible Working Policy

8.2.5 The maximum number of consecutive standard (i.e 7.5 hours) day shifts recommended for staff to work is 7. Staff may request to work more than this (to a maximum of 10) if it is deemed safe to do so.

8.2.6 Long shifts should not be worked consecutively for more than three days, with the exception of nights where a longer pattern of shifts are less detrimental to sleep patterns. The maximum number of consecutive night duties recommended for staff is 4. Staff may request to work more than this (to a maximum of 7 in two weeks) if it is deemed safe to do so.

8.2.7 The normal working hours of a night worker should not exceed, on average, 8 hours in each 24-hour period (averaged over a 17-week period). The UHB currently operates shift patterns where employees work a 12 hour shift overnight. This will be compliant with the Regulations so long as the average night hours do not exceed more than 8 hours within each 24 hour period.

8.2.8 Working consecutive shifts (i.e late shifts to night shifts; night shifts to early shifts) should not be planned and normal practice

8.2.9 Employees should normally have a rest period of not less than 11 hours in each 24 hour period. Where a pattern of shift working and/or 'on-call' working makes it impossible for an employee to take their full rest entitlement between shifts, line managers must make arrangements to allow equivalent compensatory rest as soon as possible.

8.2.10 All employees should receive an uninterrupted weekly rest period of 35 hours (including the 11 hours of daily rest) in each seven day period. Where this is not possible, they should receive equivalent rest over a 14 day period, either as one 70 hour period or two 35 hour periods.

8.2.11 Staff must not work more than an average of 48 hours per week from any employment over a 17 week reference period.

8.2.12 An individual worker may agree to work more than the average of 48 hours in a 7 day period by signing an 'Opt Out' agreement which they may cancel at any time. The UHB cannot force an employee to sign an 'Opt Out' agreement as any such agreement must be mutually agreed. (see section 7.1)

8.2.14 Shift lengths should not normally be longer than 12 hours (12 ½ to include handover time), and should not exceed a total of 12 ½ hours apart in very exceptional circumstances e.g. in a medical emergency.

8.2.17 Consideration should be given to the requirements of the Equality Act 2010 and other UHB policies when rostering shifts and breaks. This may include the need to make agreed reasonable adjustments when an individual has a disability, to agree reasonable adjustments when staff choose to combine breastfeeding and returning to work and to consider any cultural or religious beliefs or practices which may impact on the timing of any breaks for particular members of staff.

8.3 Employees who feel that the hours they work are excessive and/or disruptive to adequate rest should bring this to the attention of their line manager.

8.4 Special rules exist for Young Workers and Night Workers. These are set out in Appendices 4 and 5.

9. Breaks

9.1 Unpaid (Rest) Breaks

The unpaid break (otherwise referred to as a meal break, a rest break, lunch, a break) is an undisturbed break during which staff have a right to leave the workplace if they so wish, unless circumstances are exceptional in which case the break would be paid or be compensated for by granting equivalent compensatory rest.

Within the UHB, any unpaid rest breaks should be based on the following:

9.1.1 Rest breaks must be provided for all staff working in excess of 6 hours and will be unpaid. As such, they should not be disturbed unless there is an exceptional need in which case the break would be paid or be compensated for by granting equivalent compensatory rest.

- 9.1.2 The duration of the rest breaks will vary according to where staff work and the shift patterns in place but in all cases must not be less than 20 minutes. Where possible, staff should also have the opportunity and managers should make every effort to allow staff to have a meal break during the shift of between 30 and 60 minutes. Any break should be proportional to the length of the shift. The timing and length of breaks need to be agreed with managers in the interests of the service
- 9.1.3 Within the UHB staff will not be allowed to add their breaks onto the beginning or end of their shift as breaks are given as a means of managing fatigue, which could lead to errors. For staff to take breaks at the end of a shift defeats the purpose of the break as staff are given rest time to improve their effectiveness in work. Breaks should take place towards the middle period of work, wherever possible
- 9.1.4 If staff are unable to take the break because of service demands then the break should be paid or compensatory rest given in line with local time off in lieu arrangements. Time off in lieu for breaks will not be given at the beginning or end of the particular shift as outlined in 9.1.3 above. Prior agreement must be reached before any time off in lieu is taken in line with any local arrangements.
- 9.1.5 Actual working hours will, therefore, be calculated as start and finish times, minus any unpaid rest breaks. Any breaks taken need to be recorded on rosterpro or marked on timesheets and verified by the manager or designated deputy. .
- 9.1.6 Employees should be able to take this rest break away from their work station

9.2 Concessionary Break

A concessionary break (sometimes referred to as a tea break) is a less formal break which enables staff to have a drink or take a brief break from work. This break is paid and may therefore be disturbed if the needs of the service require this; in exceptional circumstances, it may not be possible to facilitate concessionary breaks at all.

It is recognised that for most employees it is beneficial to be able to have a drink and short break over and above their set unpaid rest break. However, in circumstances where work is repetitive, continuous or requiring exceptional concentration, employers must ensure the provision of adequate rest breaks as an integral part of their duty to protect the health and safety of their employees. In such circumstances, the advice of local occupational health services will be sought.

- 9.2.1 For some staff groups it will be possible to make a drink whilst at their place of work (for example, office staff) but for others, in clinical areas or away from their base, this will not be possible. For this latter group of staff, who due to

the nature or place of work would not otherwise be able to have a drink whilst on duty, one or more concessionary breaks per day (depending on the length of the shift) during paid work hours, is allowed in addition to the unpaid rest break.

- 9.2.2 Any concessionary breaks must not exceed fifteen minutes and need to be taken at times agreed by their local manager taking into account the immediate needs of the service.
- 9.2.3 Whilst there is no restriction on where this concessionary break can be taken, staff need to be aware that they are still technically on duty during their break and may therefore be called upon to deal with any urgent work related issues during this time. Staff leaving the department for concessionary breaks should ensure that a supervisor or manager knows where they can be contacted.

10. Secondary Employment

Staff members are required to notify the UHB if they plan to undertake secondary employment and to advise of any current secondary employment (See Appendix 3). Staff who have secondary employment must ensure they have adequate rest periods and that their combined working hours are not so excessive that they endanger their own health and safety and thereby constitute a risk to their colleagues and patients.

The UHB also has a responsibility to ensure that staff safety and patient care are not affected as a result of UHB staff working over the minimum weekly limit. Staff are therefore required to inform the UHB (i.e. their manager) if secondary employment results in them working more than a combined average of 48 hours over a 17-week reference period.

11. Grievances

Grievances by staff over any issues concerning the Working Time Regulations will be handled informally by the line manager in the first instance and by the Grievance Policy thereafter.

12. Resources

The implementation of this policy will not require any additional resources

13. Training

It is the responsibility of the line manager to ensure that employees are made aware of this policy and any local arrangements, their role and responsibilities during the recruitment process and as part of their local induction.

14. Implementation

This policy is to be implemented with immediate effect.

All current patterns of work that do not follow this policy should be reviewed as soon as possible and the findings documented. Managers, Staff Representatives and Human Resources Staff will be required to consult and plan with staff how the new arrangements are to be implemented, ensuring that all appropriate parties, including Payroll are made aware of the changes.

15. Equality

Cardiff and Vale UHB is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff, patients and others reflects their individual needs and does not discriminate, harass or victimise individuals or groups. These principles run throughout our work and are reflected in our core values, our staff employment policies, our service standards and our Single Equality Scheme – FAIR CARE. The responsibility for implementing the scheme falls to all employees and UHB Board members, volunteers, agents or contractors delivering services or undertaking work on behalf of the UHB.

We have undertaken an Equality Impact Assessment and received feedback on this policy and the way it operates. We wanted to know of any possible or actual impact that this policy may have on any groups in respect of gender, maternity and pregnancy, carer status, marriage or civil partnership issues, race, disability, sexual orientation, Welsh language, religion or belief, transgender, age or other protected characteristics. The assessment found that there was a positive impact to the equality groups mentioned. Where appropriate we will make plans for the necessary actions required to minimise any stated impact to ensure that we meet our responsibilities under the equalities and human rights legislation

16. Audit

This policy may be subject to audit and will be assessed in line with normal audit planning processes

Managers are responsible for implementing this Policy and the Working Time Regulations in their areas of responsibility. Evidence, monitoring records, employee Opt Out Agreements etc must be available at departmental level to demonstrate the Working Time Hours Regulations are being complied with as far as practically possible

17. Distribution

This policy will be available via the UHB Clinical Portal, Intranet and Internet web sites. Where members of staff do not have access to these resources, the line manager must ensure that they are aware of the content where appropriate.

Responsibility for distribution within Clinical Boards will be undertaken by the Head of Operations and Delivery.

18. Review

This policy will be reviewed to reflect any changes in guidance or legislation. As a minimum, it will be reviewed three years after the date of approval.

Appendix 1

A copy of the [Working Time Directive Opt Out Agreement](#) can be found on the UHB intranet. If you are not able to access the intranet, please contact your line manager or Human Resources (on UHW 45700).

This arrangement can be brought to an end by the UHB or the Employee by giving, in writing, seven days notice. Less notice will be considered in exceptional circumstances.

Appendix 2

If you have signed an opt out, you have the right to opt back in and tell your manager that you no longer want to work more than 48 hours a week. All you have to do is write and tell your manager that you wish to be covered by the rules again, giving at least 7 days notice. A [template letter](#) you can use is available on the UHB intranet. If you are not able to access the intranet, please contact your line manager or Human Resources (on UHW 45700).

Appendix 4

A copy of the form to [declare secondary employment](#) can be found on the UHB intranet. If you are not able to access the intranet, please contact your line manager or Human Resources (on UHW 45700).

Special Rules for Young Workers

Daily Rest: *A young worker i.e. sixteen or seventeen years old is entitled to 12 uninterrupted hours rest in each 24-hour period they work. This may be interrupted if periods of work are split up over the day or do not last long. A young worker's entitlement to daily rest can be reduced or excluded in exceptional circumstances only. Where this occurs, the young worker should receive compensatory rest within three weeks.*

Weekly Rest: A young worker is entitled to two days off in each 7 day period of working. This cannot be averaged over a 14 day period. If the nature of the job makes it unavoidable, a young worker's weekly time off can be reduced to 36 hours.

Rest Breaks at Work If a young worker is required to work for more than four and a half hours in any one period of time, he or she is entitled to a rest break of 30 minutes. A young worker's entitlement to rest breaks can be changed or excluded only in exceptional circumstances. Where this occurs, the young worker should receive compensatory rest within three weeks.

Appendix 4 - Night Workers

Staff who work night shifts as part of a regular commitment are entitled to be offered a regular, free and confidential health assessment. Managers are responsible for ensuring that this is offered. The health assessment is achieved by completion of the following questionnaire but may also involve a more detailed assessment by the Occupational Health Department.

If a questionnaire is not completed and returned it is assumed by Occupational Health that staff do not wish to have an assessment.

The UHB will consider the availability of alternative daytime employment should a night worker's health preclude them from safe night working. Managers must keep records of all night workers' hours worked.

**CARDIFF AND VALE UHB
NIGHT WORK HEALTH ASSESSMENT QUESTIONNAIRE**

By completing this questionnaire it will be possible for Occupational Health to make an assessment of your fitness to work nights. If an appointment to meet with an Occupational Health Nurse to discuss your health is requested, you will be contacted with a date. Under normal circumstances, an invitation from Occupational Health for further examination will only be necessary if we require additional information about your fitness for night work. The information will remain confidential and will be filed in your Occupational Health Record.

NAME:			
ADDRESS:			
DAYTIME TEL NO:			
DATE OF BIRTH:		AGE:	
JOB TITLE:			
EMPLOYER:			
LOCATION:			
1.	How long have you been carrying out night work?		
2.	Do you have any concerns regarding your capability to carry out night work? If YES please describe them below:	YES	NO
3.	Do you believe you have any disability that affects your ability to work? If YES please describe your condition below:	YES	NO
4.	Are you taking any medication at present? If YES please list:	YES	NO
5.	If you have answered YES to any of the above, please detail the effect it has on your ability to perform night work.		
6.	Would you like an appointment to discuss your health and night work?	YES	NO
Signature		Date	

Occupational Health Use Only

Paper Screened by		Designation		Date	
Result	No further action				
	Arrange appointment with Occupational Health Nurse				
	Arrange appointment with Occupational Health Physician				

Section A: Assessment	
Name of Policy	Working Times Policy
Person/persons conducting this assessment with Contact Details	Rachel Pressley, Senior HR Policy and Compliance Officer Pauline Williams, RCN
Date	15 April 2014

1. The Policy

Is this a new or existing policy?

New (amalgamation of previous Working Times Regulation Policy and Shift Time and Meal Breaks Policy)

What is the purpose of the policy?

The UHB is committed to the Health and Safety of all staff and to meeting its obligations under the Working Time Regulations (1998). The UHB recognises that working patterns can have an impact on the health and safety of staff, patients and visitors and therefore sets out the acceptable shift patterns and meal break requirements.

The UHB acknowledges the importance of allowing staff to take reasonable breaks from their work during the working shift in order to ensure their own health and safety and well-being and those of their patients.

The UHB will endeavour aim to ensure that the arrangements introduced as a consequence of this policy do not discriminate against employees on the basis of the protected characteristics set out in the Equality Act 2010.

The purpose of this policy is to ensure compliance with the principles of the Working Time Regulations and the safe working of

all staff. The policy sets out for managers and staff how to work within the regulations or within agreed derogations

How do the aims of the policy fit in with corporate priorities? i.e. Corporate Plan

This policy ensures compliance with the Working Times Regulations (1998).

There are links between this policy and the following:

Flexible Working Policy

Rostering Policy (for Nurses and Midwives)

Guidelines for Combining Returning to Work and Breastfeeding

Who will benefit from the policy?

This policy applies to all staff, except for doctors and dentists where national arrangements apply. For the purposes of this policy, this includes permanent, temporary, bank and agency staff as well as honorary contract holders, secondees and volunteers.

This policy should be applied consistently across all sites and all staff. Staff of the same staff group should not have different application of breaks and shifts. If there is a service need to differentiate between work areas then this would have to be consulted with staff representatives and Workforce and OD, and documented appropriately.

What outcomes are wanted from this policy?

The protection of staff, patients and other stakeholder by allowing good practice around the health and safety of working practices

Compliance with legislation

Safe working practices

High standards of patient care

Adequate rest breaks

Equity and consistency in the use of breaks

Are there any factors that might prevent outcomes being achieved? (e.g. Training/practice/culture/human or financial resources)

Lack of communication of this policy

Lack of understanding about this policy and the responsibilities set out in it

Lack of consistency in how the policy is implemented/applied

2. Data Collection

What qualitative data do you have about the policy relating to equalities groups (e.g. monitoring data on proportions of service users compared to proportions in the population)?

What quantitative data do you have on the different groups (e.g. findings from discussion groups, information from comparator authorities)?

Please indicate the source of the data gathered? (e.g. Concerns/Service/Department/Team/Other)

What gaps in data have you identified? (Please put actions to address this in your action plan?)

The policy EQIAs from other organisations accessed include those of:

[Barnet and Chase Farm Hospitals NHS Trust](#), [North East London NHS Foundation Trust](#), [Worcestershire Country Council](#), [Surrey and Borders Partnership NHS Foundation Trust](#), and [Bury Council](#)

UHB staffing data was generated from the Electronic Staff Record in March 2014

3. Impact

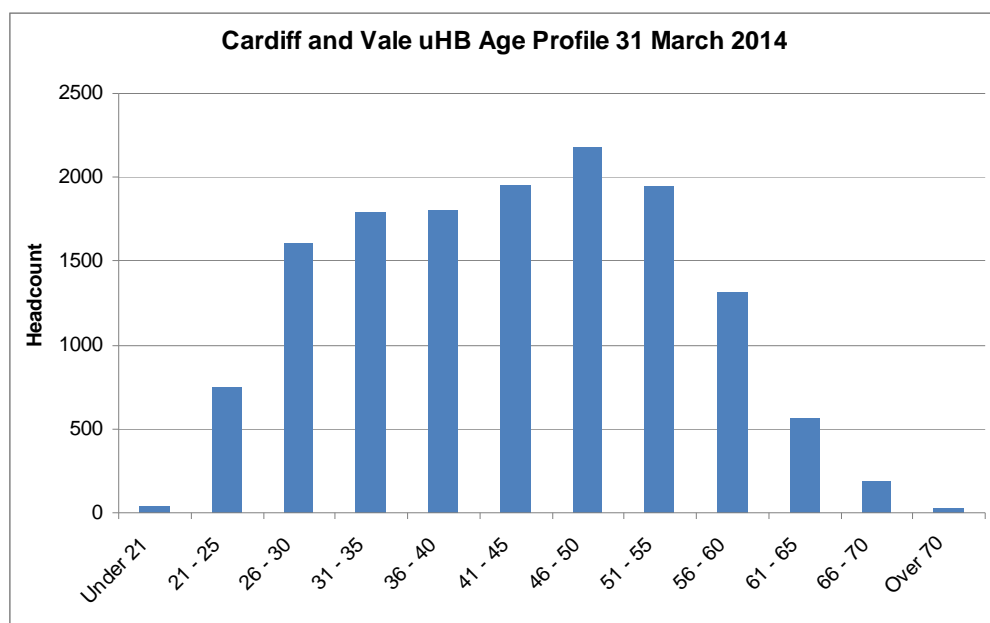
Please answer the following

Consider the information gathered in section 2 above of this assessment form, comparing monitoring information with census data as appropriate (see www.ons.gov.uk Office National Statistics website) and considering any other earlier research or consultation. You should also look at the guidance in Appendix 1 with regard to the protected characteristics **stating the impact and giving the key reasons for your decision.**

Do you think that the policy impacts on people because of their age? (This includes children and young people up to 18 and older people)

Yes - under the Working Time Regulations, special rules exist for Young Workers (i.e. 16 and 17 year olds) – these rules are set out in the policy. However, in March 2014 the UHB only employed 40 individuals under the age of 21 so the percentage of staff the young workers rules will apply to is very small.

The age profile for Cardiff and Vale UHB staff is show in the table below:



A number of EQIAs from other organisations were examined as part of this EQIA process – of those checked:

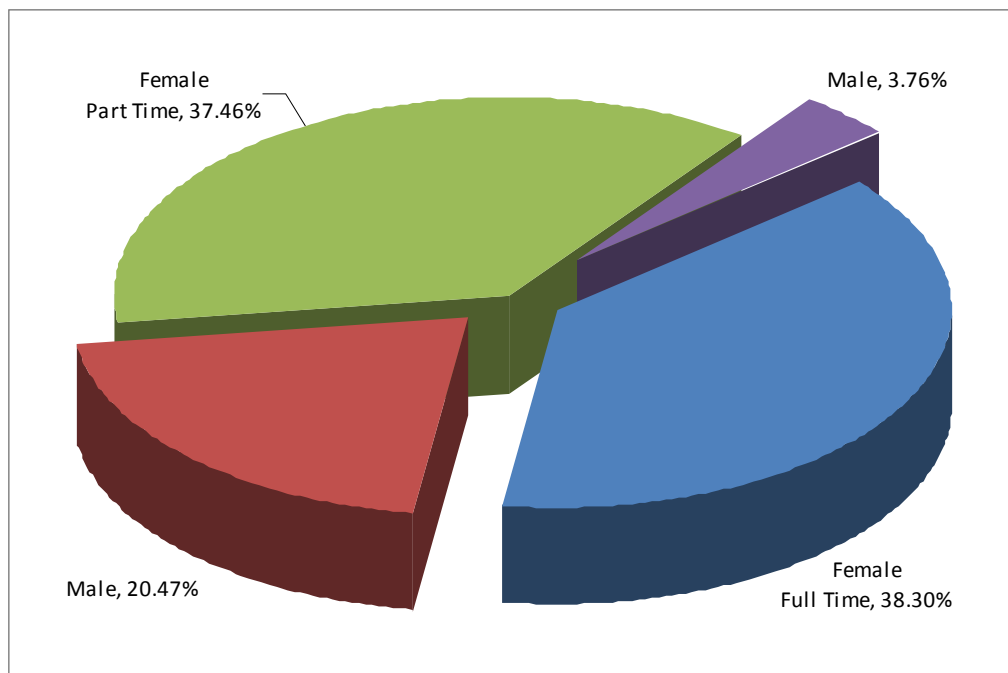
- Surrey and Borders Partnership NHS Trust found that their Rostering, Working Hours and Annual leave Policy (including compliance with WTD) had no impact on the basis of age
- North East London NHS Foundation Trust found that their Policy on Secondary Employment and Working Hours did not affect one

- group less or more favourably than another on the basis of age
- Worcestershire County Council found that their Working Times Regulations Policy: did not discriminate; that there were no barriers to people from minority groups getting the full benefit of the policy; that the policy did not unintentionally deliver poorer outcomes for individuals because they were members of a minority group; and that people from minority groups could not reasonably believe that they would be likely to get poorer benefits from the policy. This assessment included a consideration of the impact on people of different ages
 - Barnet and Chase Farm Hospitals stated that their Working Time Directive Policy had a positive differential impact due to age because workers who are between the age of 16-18 will be required to work less hours than adults and they are not allowed to opt out like their adult colleagues.
 - Bury Council found that there was a positive impact due to age on the basis that age can have an effect on some of the rights regarding weekly working hours.

Do you think that the policy impacts on people because of their caring responsibilities?

The policy states that staff should have a minimum of one weekend off per 4 week roster unless an alternative arrangement is agreed via the Flexible Working Policy – while it is recognised that the Flexible Working Policy is available for all staff, it is assumed that it is primarily used by individuals with caring responsibilities.

The percentage of UHB male and female employees who work part time is shown in the diagram below:



A number of EQIAs from other organisations were examined as part of this EQIA process – of those checked:

- Surrey and Borders Partnership NHS Trust found that their Rostering, Working Hours and Annual leave Policy (including compliance with WTD) had no impact on the basis of caring responsibilities
- Barnet and Chase Farm Hospitals stated that their Working Time Directive Policy had a neutral differential impact due to caring responsibilities on the basis that it is well known that those with caring responsibilities can find it hard to balance caring and work commitments especially if excessive hours are included into the environment
- Bury Council found that there was a neutral impact due to caring responsibilities on the basis that it is not a relevant factor in relation to Working Time Regulations

Do you think that the policy impacts on people because of their disability? (This includes Visual impairment, hearing impairment, physically disabled, Learning disability, some mental health issues, HIV positive, multiple sclerosis, cancer, diabetes and epilepsy).

Yes – the policy has a positive impact as it states that due consideration should be given to individual circumstances such as reasonable adjustments agreed when an individual has a disability

Workforce profile information for Cardiff and Vale UHB shows that 0.75% of staff consider themselves to have a disability, but this information is not known for the majority of staff (76.23%)

Disabled	Headcount	% Total
No	3334	23.54%
Not Declared	13	0.09%
Undefined	10704	75.56%
Yes	115	0.81%
Grand Total	14166	

A number of EQIAs from other organisations were examined as part of this EQIA process – of those checked:

- Surrey and Borders Partnership NHS Trust found that there was their Rostering, Working Hours and Annual leave Policy (including compliance with WTD) had no impact on the basis of disability
- North East London NHS Foundation Trust found that their Policy on Secondary Employment and Working Hours did not affect one group less or more favourably than another on the basis of disability
- Worcestershire County Council found that their Working Times Regulations Policy: did not discriminate; that there were no barriers to people from minority groups getting the full benefit of the policy; that the policy did not unintentionally deliver poorer outcomes for individuals because they were members of a minority group; and that people from minority groups could not reasonably believe that they would be likely to get poorer benefits from the policy. This assessment included a consideration of the impact on people with disabilities
- Barnet and Chase Farm Hospitals NHS Trust stated that their Working Time Directive Policy could have a possible negative differential impact due to disability on the basis that some physically disabled people may require additional regular rest periods and that working long hours with minimal rest periods could affect their ability to rest and recuperate.
- Bury Council found that there was a neutral impact due to disability on the basis that it is not a relevant factor in relation to the Working Times Regulations

Do you think that the policy impacts on people because of Gender reassignment? (This includes Trans transgender and transvestites)

Yes - the policy is intended to prevent any discrimination on the basis gender reassignment

A number of EQIAs from other organisations were examined as part of this EQIA process – of those checked:

- Surrey and Borders Partnership NHS Trust found that there was their Rostering, Working Hours and Annual leave Policy (including compliance with WTD) had no impact on the basis of gender reassignment
- Barnet and Chase Farm Hospitals stated that their Working Time Directive Policy had a neutral differential impact due to gender reassignment on the basis that the Working Time Regulations are implemented consistently for all staff over 18 years old

Do you think that the policy impacts on people because of their being married or in a civil partnership?

Yes – the policy is intended to prevent any discrimination due to staff being married or in a civil partnership

The 2011 Census data shows that the overall UHB population proportions for marriage and civil partnership closely mirrors the population proportions for Wales as a whole (see Table 1 below).

Cardiff and Vale UHB has a significantly higher proportion of people categorised as single (never married or never registered in a same-sex civil partnership) than the proportion for Wales as a whole (41.2% compared to 33.5%). This is due to the high numbers of residents in Cardiff within this category, compared to other local authorities.

It is notable that the number of registered same-sex civil partnerships accounts for only 0.2% of all marital/civil partnerships statuses across Wales, and this pattern is repeated in the UHB population.

The Cardiff and Vale UHB area has a large variation from the Wales population proportions, especially in the categories of single (never married or never registered a same-sex civil partnership and married). For all other categories, the UHB mirrors the values for Wales as a whole.

If we look at the married category for Cardiff and the Vale UHB has a lower proportion (38.5%) of its population categorised as married than the overall Wales proportion (46.6%).

Table 1: Marital and civil partnership status by local authorities in Wales (Source: Table KS103EW 2011 Census, ONS).

Region	Single (never married or never registered a same-sex civil partnership)	Married	In a registered same-sex civil partnership	Separated (but still legally married or still legally in a same- sex civil partnership)	Divorced or formerly in a same-sex civil partnership which is now legally dissolved	Widowed or surviving partner from a same-sex civil partnership	Total (%)	Total
Cardiff and Vale UHB	41.2%	41.3%	0.2%	2.2%	8.7%	6.4%	100.0%	385,619
<i>Vale of Glamorgan</i>	30.8%	49.1%	0.2%	2.3%	10.0%	7.6%	100.0%	102,504
<i>Cardiff</i>	45.0%	38.5%	0.2%	2.1%	8.2%	6.0%	100.0%	283,115
Wales	33.5%	46.6%	0.2%	2.2%	9.7%	7.9%	100.0%	2,507,160

None of EQIAs from other organisations accessed referred to any impact due to marital status or being in a civil partnership

Do you think that the policy impacts on people because of their being pregnant or just having had a baby?

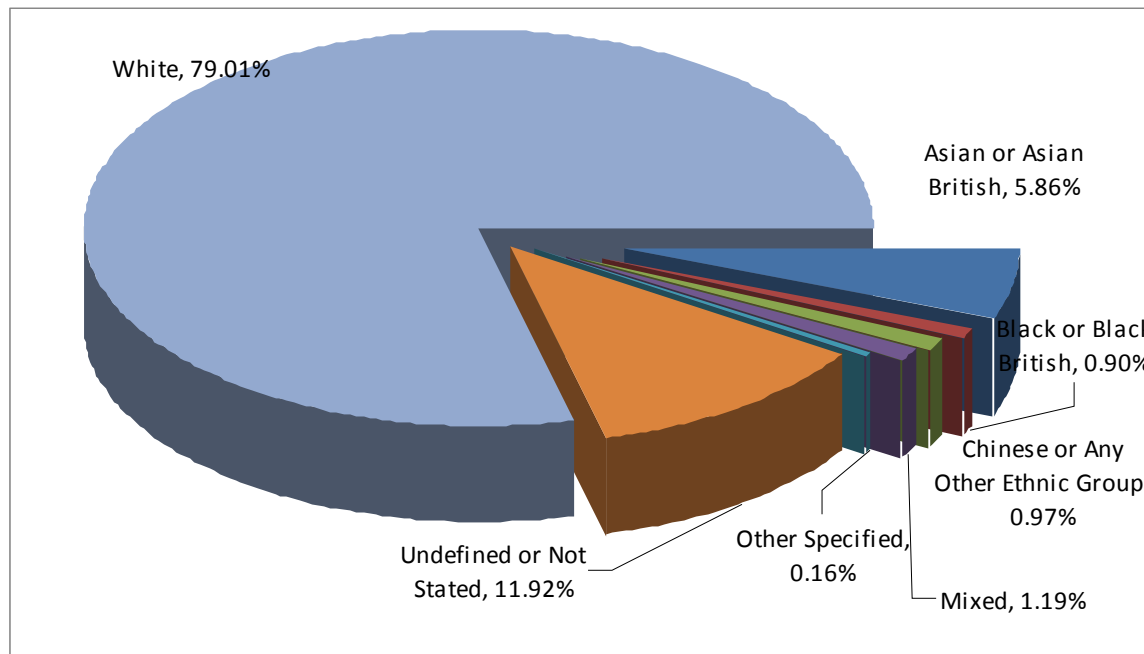
Yes – the policy has a positive impact as it states that due consideration should be given individual circumstances such as reasonable adjustments agreed staff choose to combine breastfeeding and returning to work. Additional guidance on this is found in the UHB Guidelines on Combining Breastfeeding and Returning to Work.

None of EQIAs from other organisations accessed referred to any impact due to being pregnant or just having had a baby.

Do you think that the policy impacts on people because of their race? (This includes colour, nationality and citizenship or ethnic or national origin such as Gypsy and Traveller Communities.)

Yes – the policy is intended to prevent any discrimination due to race

The profile for Cardiff and Vale UHB staff is show in the table below



A number of EQIAs from other organisations were examined as part of this EQIA process – of those checked:

- Surrey and Borders Partnership NHS Trust found that there was their Rostering, Working Hours and Annual leave Policy (including compliance with WTD) had no impact on the basis of ethnicity or race
- North East London NHS Foundation Trust found that their Policy on Secondary Employment and Working Hours did not affect one group less or more favourably than another on the basis of race, ethnic origins and nationality
- Worcestershire County Council found that their Working Times Regulations Policy: did not discriminate; that there were no barriers to people from minority groups getting the full benefit of the policy; that the policy did not unintentionally deliver poorer outcomes for individuals because they were members of a minority group; and that people from minority groups could not reasonable believe that they would be likely to get poorer benefits from the policy. This assessment included a consideration of the impact on people of different races

- Barnet and Chase Farm Hospitals stated that their Working Time Directive Policy had a neutral differential impact on different racial groups on the basis that the Working Time Regulations are implemented consistently for all staff over 18 years old.
- Bury Council found that there was a neutral impact due to race on the basis that it is not a relevant factor in relation to the Working Times Regulations

Do you think that the policy impacts on people because of their religion, belief or non-belief? (Religious groups cover a wide range of groupings the most of which are Buddhist, Christians, Hindus, Jews, Muslims, and Sikhs. Consider these categories individually and collectively when considering impacts)

Yes – the policy states that due consideration should be given to any cultural or religious beliefs or practices which may impact on the timing of any breaks for particular members of staff.

The profile of UHB staff on the basis religion, belief and non-belief (where known) is below:

Religious Belief	Headcount	% Total
Atheism	659	4.58%
Buddhism	19	0.13%
Christianity	3388	23.56%
Hinduism	39	0.27%
I do not wish to disclose my religion/belief	614	4.27%
Islam	79	0.55%
Jainism	2	0.01%
Judaism	2	0.01%
Other	642	4.46%
Sikhism	2	0.01%
Undefined	8935	62.13%
Grand Total	14381	

A number of EQIAs from other organisations were examined as part of this EQIA process – of those checked:

- Surrey and Borders Partnership NHS Trust found that in relation to religion/beliefs/faith or spirituality, their Rostering, Working Hours and Annual leave Policy (including compliance with WTD) did not have an impact on unlawful/unjustifiable discrimination, harassment or victimization, lack of good relations between different groups or lack of positive attitudes. However, they found that

there was a negative impact in relation to lack of equality to opportunity.

- North East London NHS Foundation Trust found that their Policy on Secondary Employment and Working Hours did not affect one group less or more favourably than another on the basis of religion, belief or culture
- Worcestershire County Council found that their Working Times Regulations Policy: did not discriminate; that there were no barriers to people from minority groups getting the full benefit of the policy; that the policy did not unintentionally deliver poorer outcomes for individuals because they were members of a minority group; and that people from minority groups could not reasonably believe that they would be likely to get poorer benefits from the policy. This assessment included a consideration of the impact on people of different religion or beliefs
- Barnet and Chase Farm Hospitals stated that their Working Time Directive Policy had a neutral differential impact due to religion and belief on the basis that minimum rest periods should still allow those who need it to include time for prayer and reflection
- Bury Council found that there was a neutral impact due to religion or belief on the basis that it is not a relevant factor in relation to the Working Times Regulations

Do you think that the policy impacts on men and woman in different ways?

Yes - the policy is intended to prevent any discrimination on the basis of gender

The majority of the UHB workforce is female, though there are areas within the UHB where the workforce is predominately male (e.g. Estates). The UHB workforce profile is as below:

Gender	Headcount	% Headcount	WTE	% WTE
Female	10733	75.77%	8895.86	73.23%
Male	3433	24.23%	3252.38	26.77%
Grand Total	14166		12148.25	

A number of EQIAs from other organisations were examined as part of this EQIA process – of those checked:

- Surrey and Borders Partnership NHS Trust found that there was their Rostering, Working Hours and Annual leave Policy (including compliance with WTD) had no impact on the basis of gender
- North East London NHS Foundation Trust found that their Policy on Secondary Employment and Working Hours did not affect one

- group less or more favourably than another on the basis of gender
- Worcestershire County Council found that their Working Times Regulations Policy: did not discriminate; that there were no barriers to people from minority groups getting the full benefit of the policy; that the policy did not unintentionally deliver poorer outcomes for individuals because they were members of a minority group; and that people from minority groups could not reasonably believe that they would be likely to get poorer benefits from the policy. This assessment included a consideration of the impact on people of different sexes
- Barnet and Chase Farm Hospitals stated that their Working Time Directive Policy had a neutral differential impact due to gender on the basis that the Working Time Regulations are implemented consistently for all staff over 18 years old
- Bury Council found that there was a neutral impact due to gender on the basis that it is not a relevant factor in relation to the Working Times Regulations

Do you think that the policy impacts on people because of their sexual orientation? (This includes Gay men, heterosexuals, lesbians and bisexuals)

Yes - the policy is intended to prevent any discrimination on the basis of sexual orientation.

The profile of UHB staff on the basis of sexual orientation (where known) is below:

Sexual Orientation	Headcount	% Total
Bisexual	29	0.20%
Gay	61	0.43%
Heterosexual	5282	37.29%
I do not wish to disclose my sexual orientation	393	2.77%
Lesbian	41	0.29%
Undefined	8360	59.01%
Grand Total	14166	

A number of EQIAs from other organisations were examined as part of this EQIA process – of those checked:

- Surrey and Borders Partnership NHS Trust found that there was their Rostering, Working Hours and Annual leave Policy

- (including compliance with WTD) had no impact on the basis of sexual orientation
- North East London NHS Foundation Trust found that their Policy on Secondary Employment and Working Hours did not affect one group less or more favourably than another on the basis of sexual orientation
 - Worcestershire County Council found that their Working Times Regulations Policy: did not discriminate; that there were no barriers to people from minority groups getting the full benefit of the policy; that the policy did not unintentionally deliver poorer outcomes for individuals because they were members of a minority group; and that people from minority groups could not reasonably believe that they would be likely to get poorer benefits from the policy. This assessment included a consideration of the impact on people of different sexual orientations
 - Barnet and Chase Farm Hospitals stated that their Working Time Directive Policy had a neutral differential impact due to sexual orientation on the basis that the Working Time Regulations are implemented consistently for all staff over 18 years old
 - Bury Council found that there was a neutral impact due to sexual orientation on the basis that it is not a relevant factor in relation to the Working Times Regulations

Do you think that the policy impacts on people because of their Welsh language?

No the policy will not impact people because of their Welsh Language Skills

4. Summary.

Which equality groups have positive or negative impacts been identified for (i.e. differential impact).
Is the policy directly or indirectly discriminatory under the equalities legislation?
If the policy is indirectly discriminatory can it be justified under the relevant legislation?

A thorough analysis of the implications and impact of the Working Times Policy has been undertaken and a number of Equality Impact Assessments have been examined from other large public sector organisations. It is recognised that all of the information has been obtained from English organisations but this is due to the paucity of documentation found on the internet from Welsh Public/Private Sector bodies.

The policy has been found to have a positive impact on the basis of the following

- In respect of the impact on individual employees because of age, special rules exist for Young Workers (i.e. 16 and 17 year olds) within the Working Time Directive. However, in March 2014 the UHB only employed 40 individuals under the age of 21 so the percentage of staff the young workers rules will apply to is very small.
- The policy states that staff should have a minimum of one weekend off per 4 week roster unless an alternative arrangement is agreed via the Flexible Working Policy – while it is recognised that the Flexible Working Policy is available for all staff, it is assumed that it is primarily used by individuals with caring responsibilities
- Due consideration should be given to individual circumstances such as reasonable adjustments agreed when an individual has a disability
- Due consideration should be given individual circumstances such as reasonable adjustments agreed staff choose to combine breastfeeding and returning to work. Additional guidance on this is found in the UHB Guidelines on Combining Breastfeeding and Returning to Work.
- Due consideration should be given to any cultural or religious beliefs or practices which may impact on the timing of any breaks for particular members of staff.

The Fixed Term Contract Policy is also designed and intended to prevent discrimination in relation to the following:

- the fact of them being married or in a civil partnership;
- due to their gender

- due to any disability
- due to gender reassignment
- due to their sexual orientation

Section B: Action

5. Please complete your action plan below. Issues you are likely to need to address include

- What **consultation** needs to take place with equality groups (bearing in mind any relevant consultation already done and any planned corporate consultation activities?)
- What **monitoring/evaluation** will be required to further assess the impact of any changes on equality target groups?

Equalities Impact Assessment Implementation Mitigation/Action Plan

Issue to be addressed	Responsible Officer	Action Required	Timescale for completion	Action Taken	Comments
Understanding and compliance with the requirements of the policy	Rachel Pressley	Briefing sheet to raise awareness of the policy and point managers in the right direction for further support	On approval of the Policy		Issued via intranet, administrator email, Clinical Boards/Corporate areas management teams and lead trade union representatives

6. Report, publication and Review

Please record details of the report or file note which records the outcome of the EQIA together with any actions / recommendations being pursued (date, type of report etc)

Please record details of where and when EQIA results will be published

Once the criteria has been approved the documentation will be placed on the intranet and internet.

Please record below when the EQIA will be subject to review.

The EQIA and Policy will be reviewed three years after approval unless changes to terms and conditions, legislation or best practice determine that an earlier review is required

Name of person completing	Rachel Pressley, Senior HR Policy and Compliance Officer
Signed	<i>Rachel Pressley</i>
Date	17.04.14

Name of Responsible Executive/Clinical Board Director Authorising Assessment and Action Plan for publication	Tracy Myhill, Director of Workforce and OD/Deputy Chief Executive
Signed	
Date	

Executive Summary

Background

The UHB is committed to the Health and Safety of all staff and to meeting its obligations under the Working Time Regulations (1998). The UHB recognises that working patterns can have an impact on the health and safety of staff, patients and visitors and therefore sets out the acceptable shift patterns and meal break requirements.

The purpose of this policy is to ensure compliance with the principles of the Working Time Regulations and the safe working of all staff. The policy sets out for managers and staff how to work within the regulations or within agreed derogations

The scope of the EQIA

A number of EQIAs relating to Fixed Term Contract Policies from other NHS and public sector organisations were accessed when completing the EQIA.

Key findings

The policy has been found to have a positive impact on the basis of the following

- special rules exist for Young Workers
- Staff should have a minimum of one weekend off per 4 week roster unless an alternative arrangement is agreed via the Flexible Working Policy – while it is recognised that the Flexible Working Policy is available for all staff, it is assumed that it is primarily used by individuals with caring responsibilities
- Due consideration should be given to the need to make reasonable adjustments agreed when an individual has a disability
- Due consideration should be given to the need to agree reasonable adjustments when staff choose to combine breastfeeding and returning to work.
- Due consideration should be given to any cultural or religious beliefs or practices which may impact on the timing of any breaks for particular members of staff.

The Working Time Policy is also designed and intended to prevent discrimination in relation to the following:

- the fact of them being married or in a civil partnership;
- due to their gender
- due to any disability
- due to gender reassignment
- due to their sexual orientation

Recommendations

Following a thorough analysis of the implications and impact of the policy, the following is recommended:

- additional guidance / communication to be developed to ensure that managers are aware of the requirements of the legislation and the processes to be followed