

Reference Number: 241 Version Number: 2	Date of Next Review: May 2022 Previous Trust/LHB Reference Number: T/229 & UHB 168
WORKING TIMES PROCEDURE	
<p>Introduction and Aim</p> <p>The UHB is committed to the Wellbeing and 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.</p> <p>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.</p> <p>The UHB will endeavour aim to ensure that the arrangements introduced as a consequence of this Procedure do not discriminate against employees on the basis of the protected characteristics set out in the Equality Act 2010.</p>	
<p>Objectives</p> <ul style="list-style-type: none"> • The purpose of this Procedure is to ensure compliance with the principles of the Working Time Regulations and the safe working of all staff. • The Procedure sets out for managers and staff how to work within the regulations or within agreed derogations 	
<p>Scope</p> <p>This Procedure applies to all staff, except for doctors and dentists where national arrangements apply. For the purposes of this Procedure, this includes permanent, temporary, bank and agency staff as well as honorary contract holders, secondees and volunteers.</p> <p>This Procedure 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.</p>	
Equality and Health Impact Assessment	An Equality and Health Impact Assessment (EHIA) has been completed and this found there to be a positive impact.
Documents to read alongside this	Flexible Working Policy Rostering Procedure (for Nurses and Midwives)

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Procedure	Guidelines for Combining Returning to Work and Breastfeeding Thermal Comfort Procedure No Smoking Policy and Procedure
Approved by	Employment Policy Sub Group
Accountable Executive or Clinical Board Director	Executive Director of Workforce and OD
Author(s)	Workforce Governance Manager / BDA

Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [Governance Directorate](#).

Summary of reviews/amendments			
Version Number	Date of Review Approved	Date Published	Summary of Amendments
1	29.07.14	29.07.17	<i>Shift Times and Meal Breaks Policy and Working Time Regulations Policy merged</i>
2		24.05.19	Changed to procedure and reformatted. No other changes
3	15.05.19	24.05.19	Greater emphasis placed on staff health and wellbeing, as well as health and safety 4.1 '6 or more hours' changed to 'more than 6 hours' in line with government website 4.2.6 expectation that staff who work mainly nights periodically work a week of days articulated 5. importance of breaks for rest, nutrition and hydration incorporated 6.2 need for adequate breaks at

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			<p>times of extreme hot or cold weather as per Thermal Comfort Procedure included</p> <p>6.2.4 statement added to clarify that the UHB does not recognise smoking breaks</p>
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1. ROLES AND RESPONSIBILITIES

1.1 Managers Responsibilities

Managers are expected to ensure that staff work within the acceptable shift patterns and meal breaks requirements. Managers must implement this Procedure and ensure that appropriate arrangements are put in place within Directorates/Departments to monitor compliance with the Procedure.

If there are occasions when it is not possible to comply with the provisions for rest periods set out in this Procedure (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.

1.2 Employee Responsibilities

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

Employees must notify their manager if they undertake secondary employment.

2 DEFINITIONS

Worker

“Workers” are defined as anyone that the UHB:

- 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

Working Time is defined as any time an

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employee is working at the UHB's disposal and carrying out activities or duties. Working time may therefore include:

- 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

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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.

3. WORKING TIME REGULATIONS

3.1 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.

3.2 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

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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

4. SHIFT WORKING

4.1 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 more than 6 hours.

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

4.2 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:

- 4.2.1 Staff will be required to work a variety of shifts and shift patterns depending on service needs
- 4.2.2 All shifts over 6 hours must include a minimum period of 30 minutes unpaid break (20 minutes of which should be taken continuously)
- 4.2.3 Days off are usually taken together but can be mutually agreed otherwise
- 4.2.4 Staff should have a minimum of one weekend off per 4 week roster unless an alternative arrangement is agreed via the Flexible Working Policy

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- 4.2.5 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.
- 4.2.6 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. N.b. as a matter of good practice, there is an expectation that staff who work mainly nights are expected to work a week of days periodically (e.g. every 3 months) to support attendance at mandatory training etc and ensure they are integrated into the wider team.
- 4.2.7 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.
- 4.2.8 Working consecutive shifts (i.e late shifts to night shifts; night shifts to early shifts) should not be planned and normal practice
- 4.2.9 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.
- 4.2.10 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.
- 4.2.11 Staff must not work more than an average of 48 hours per week from any employment over a 17 week reference period.
- 4.2.12 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

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employee to sign an 'Opt Out' agreement as any such agreement must be mutually agreed. (see section 7.1)

4.2.14 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.

4.2.17 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.

4.3 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.

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

5. BREAKS

In order to create a safe and healthy working environment, staff should be able to have regular breaks for rest, nutrition and hydration. Many UHB employees are responsible for making safety-critical decisions and dehydration, for example, affects concentration and cognitive function.

5.1 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:

5.1.1 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

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would be paid or be compensated for by granting equivalent compensatory rest.

- 5.1.2 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
- 5.1.3 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
- 5.1.4 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 5.1.3 above. Prior agreement must be reached before any time off in lieu is taken in line with any local arrangements.
- 5.1.5 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. .
- 5.1.6 Employees should be able to take this rest break away from their work station

6.2 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,

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continuous or requiring exceptional concentration, or in times of extreme hot or cold temperatures (as outlined in the Thermal Comfort Procedure) 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 or health and safety services may be sought.

- 6.2.1 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.
- 6.2.2 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.
- 6.2.3 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.
- 6.2.4 As set out in the No-Smoking and Smoke-Free Environment Procedure, the UHB does not recognise smoking breaks.

7. 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.

8. GRIEVANCES

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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.

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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 3

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).

Appendix 4

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.

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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 5 - 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.

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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				