WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU

July 2011

Author: Heather Cottrell **Ref: 262A2011**

European Working Time Directive Compliance for Junior Doctors in Training – Follow-up

Abertawe Bro Morgannwg University Health Board

The Health Board has implemented EWTD compliant junior doctor rotas supported by alternative ways of working but needs to monitor closely junior doctors' actual working time and the implications for patient care.

Contents

Status of this report

This document has been prepared for the internal use of Abertawe Bro Morgannwg Health Board as part of work performed in accordance with statutory functions, the Code of Audit Practice and the Statement of Responsibilities issued by the Auditor General for Wales.

No responsibility is taken by the Wales Audit Office (the Auditor General and his staff) in relation to any member, director, officer or other employee in their individual capacity, or to any third party.

In the event of receiving a request for information to which this document may be relevant, attention is drawn to the Code of Practice issued under section 45 of the Freedom of Information Act 2000. The section 45 Code sets out the practice in the handling of requests that is expected of public authorities, including consultation with relevant third parties. In relation to this document, the Auditor General for Wales (and, where applicable, his appointed auditor) is a relevant third party. Any enquiries regarding disclosure or re-use of this document should be sent to the Wales Audit Office at infoofficer@wao.gov.uk.

Summary

1. In March 2009, we published an all-Wales report on compliance with the European Working Time Directive (EWTD) for junior doctors in training. The local audit work that preceded that report considered the arrangements that the then NHS trusts had put in place to secure compliance by August 2009. We focused on the requirement for junior doctors to be working no more than an average of 48 hours a week.
2. Our all-Wales report concluded that, based on the rate of progress over the previous two years and the challenges that still lay ahead, the 48-hour target was unlikely to be met on time across NHS Wales as a whole. That was, at least, without either a substantial investment of effort and resources or, in some areas, the possible temporary extension of the August 2009 deadline.
3. Our local report to Abertawe Bro Morgannwg NHS Trust (September 2008) brought together the findings of audit work undertaken prior to the Trust merger in April 2008. The report concluded that the two predecessor trusts (Swansea NHS Trust and Bro Morgannwg NHS Trust) had made consistent progress towards achieving compliance with the maximum 48-hour working week for junior doctors. However, to ensure full compliance in all clinical specialities by August 2009, Abertawe Bro Morgannwg University NHS Trust (and subsequently the Health Board) needed to set a clear direction and deliver further progress, implementing unified governance arrangements and sharing good practice.
4. A number of Health Boards in Wales applied to the Welsh Government for temporary derogations in clinical specialties where compliance against the 48 hour maximum working week was unlikely to be achieved by the August 2009 deadline. These derogations do not apply to all junior doctors but rather to those working on specific rotas. Where derogations were granted, health boards were expected to reduce average weekly working time on these rotas to 52 hours a week or less. In addition, derogations only apply until August 2011 or, in exceptional cases, extensions may be granted until August 2012.
5. At Abertawe Bro Morgannwg Health Board (the Health Board) the derogations granted relate to the following specialities:
    - Paediatrics – senior and junior training grades at the Princess of Wales Hospital and senior grades at Singleton and Morriston Hospitals;
    - Neonatal paediatrics – junior training grades at Singleton Hospital;
    - Neurosurgery – senior and junior training grades at Morriston Hospital; and
    - General medicine (including endocrinology, respiratory, gastroenterology, cardiology and care of the elderly) – junior training grades at Neath Port Talbot Hospital.

6. Our all-Wales report emphasised that changes made in order to achieve compliance might prove difficult to sustain in practice. Potential issues affecting progress include: a lack of funding for additional posts; problems with recruitment; staff resistance to new ways of working or concerns about the impact of a reduction in working time on the quality of professional training. The report also highlighted the risk that, while compliant in principle, reported rota patterns may not reflect actual working patterns.

7. With these issues in mind, we decided to undertake a follow-up review to examine whether the Health Board is now well placed to sustain, and where necessary improve, compliance with the EWTD for junior doctors[1]. We have concluded that: 'The Health Board has implemented EWTD compliant junior doctor rotas supported by alternative ways of working but needs to monitor closely junior doctors' actual working time and the implications for patient care.' More specifically:

- all of the Health Board's junior doctor rotas are, in principle, now EWTD compliant;
- the Health Board has developed alternative ways of working to reduce junior doctors' working hours, but not yet on a consistent basis, and there are significant concerns about the impact of EWTD compliance on patient care;
- rota monitoring arrangements are in place but could improve and there is evidence that working time is not always accurately recorded; and
- EWTD compliance does not currently feature as part of the Health Board's assurance framework.

Recommendations

R1	Build on lessons learnt in delivering clinical activity in different ways to support EWTD by: • assessing opportunities to promote and extend Nurse Practitioner roles; and • re-launching a more consistent approach to Hospital @ Night (H@N) (and where appropriate Hospital @ Weekends (H@W) and Hospital @ Day (H@D), identifying and applying existing good practice and clearly defining multi disciplinary team member roles.
R2	Re-establish an H@N Group to oversee the H@N re-launch and ongoing delivery of effective clinical services , ensuring continuity of handover and multi-disciplinary working.

[1] In our recent audit work on the consultant contract, we undertook a survey of consultants that included questions about EWTD compliance and its impact. Overall, 110 consultants employed by the Health Board (24 per cent of the total number employed) responded. Their views are set out in Appendix 1 alongside our all-Wales findings.

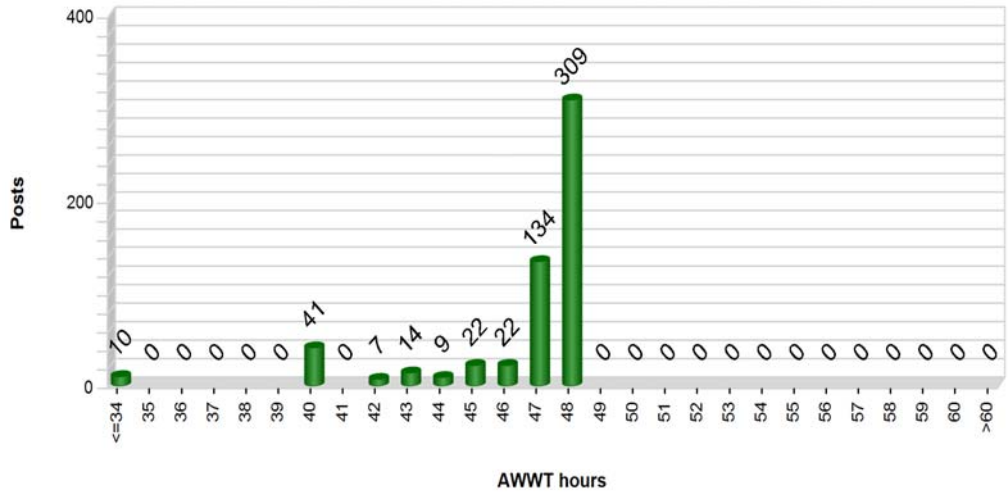
R3	Check whether appropriate systems are in place to routinely assess the clinical performance of junior doctors in a systematic and consistent manner, including the use of assessment profiles, and where necessary strengthen existing arrangements.
R4	Ensure monitoring activity is undertaken in line with New Deal requirements and take action to improve junior doctors' engagement in the process.
R5	Develop appropriate mechanisms to report EWTD compliance and to address service delivery issues as part of the corporate performance management arrangements.

All of the Health Board's junior doctor rotas are, in principle, now EWTD compliant

8. The Health Board has made good progress since our September 2008 report, in ensuring that all junior doctor rotas are EWTD compliant. Although prior to the introduction of the 48-hour-week rule, our previous report confirmed that, at July 2008, 28 per cent of junior doctors were working rotas set at more than 48 hours per week.

9. Exhibit 1 shows the average weekly working time of all junior doctors, based on rotas operating in the Health Board as at 7 February 2011. The chart indicates that all rotas are currently EWTD compliant, set at or below an average 48 hours per week. These include the clinical specialties of paediatrics, neonatal paediatrics, neurosurgery and general medicine that had previously obtained derogations. The Health Board has developed, agreed and implemented new rotas in these specialties.

Exhibit 1: Average Weekly Working Time for junior doctors – based on approved rotas



Source: Welsh Government – extracted from the MRM live system on 7 February 2011.

10. The majority of rotas have been set at or near to the 48-hour maximum and inevitably it will be more challenging to ensure these rotas remain compliant in practice. Of the 568 junior doctors, 78 per cent (443) were working on rotas set between 47 and 48 hours per week.

The Health Board has developed alternative ways of working to reduce junior doctors' working hours, but not yet on a consistent basis, and there are significant concerns about the impact of EWTD compliance on patient care

While clear progress has been made in developing Hospital @ Night and extending nursing roles, further action is required to deliver consistent and sustainable services

11. While a post of EWTD Project Manager/Co-ordinator was under consideration when we produced our September 2008 report, it was never filled. However, the development of EWTD compliant rotas was prioritised. With the establishment of the Health Board this work was taken forward initially by the Modernisation Group to ensure rota planning linked effectively with the organisation's plans for service transformation.

12. Following this initial work, the responsibility for EWTD compliant rotas transferred (in December 2009) to the Heath Board's Medical Human Resources Department. Medical Human Resources continue to provide support on EWTD compliance, assessing the impact of current and planned clinical service changes on rota design and organising rota monitoring.

13. Without the financial freedom to simply recruit more doctors, even assuming that extra posts could be filled, achieving EWTD compliance has inevitably necessitated changes in the way core clinical activity is undertaken. Overall, 73 per cent of consultants responding to our survey indicated that the main specialty/department in which they worked had seen the redesign of junior doctor rotas over the previous 18 months in order to support EWTD compliance. Just over one quarter (27 per cent) pointed to service reconfiguration as an important factor in delivering compliance.

14. The redesign of nursing roles has also been an important factor in work to achieve EWTD compliance. Clinical specialties benefiting from the development of nurse practitioner roles include Obstetrics and Gynaecology and Orthopaedics. In these specialities, nurse practitioners are undertaking some of the core clinical activity previously delivered by junior doctors. While there is evidence of good practice, a number of specialties have not developed extended nursing roles. Indeed, in some areas there has been resistance to developing alternative methods of delivering clinical services. Just over one third (35 per cent) of consultants responding to our survey pointed to the greater use being made of nurse practitioners in their main specialty/department.

15. To support the delivery of care out of hours, the Health Board has developed (H@N)[2] arrangements across all four of its major hospital sites. We reported on the early development of H@N in our September 2008 report and we recognise that some further progress has been made to develop and refine its operation.

16. There are positive examples of multidisciplinary working, as demonstrated by the medical H@N team at Morriston Hospital. However, the surgical H@N team in the same hospital has recently experienced operational difficulties. Following the transfer of emergency and complex surgical services to Morriston Hospital in December 2010, senior medical staff decided not to hold the multidisciplinary evening handover meeting in the dedicated H@N room. Instead, the meeting takes place in a ward environment with only medical staff invited. As a result, the allocation of work is not discussed and agreed by the entire team. This creates potential for breakdowns in communication and less continuity of care for patients. The outcome is that the benefits of multidisciplinary working, fundamental to H@N, are not being maximised.

17. There is not one standard approach to H@N within the Health Board, and the systems within the four main hospitals take account of local circumstances. While some local variation is necessary and beneficial, management has recognised that common systems of working are needed which enable junior doctors and nurse practitioners to be clear about their respective roles. We understand that a more structured approach is now being developed between Morriston and Singleton Hospitals, with the recent appointment of an H@N Co-ordinator (November 2010) to cover both sites. This provides a valuable opportunity to review and streamline systems, identifying and sharing good practice.

18. The more unified H@N approach being adopted in Swansea could inform the service being delivered in the Princess of Wales and Neath Port Talbot. The H@D and H@W systems, extensions of the principle that underpins the H@N approach, have also been developed at the Princess of Wales. This experience should provide lessons for any future extension to other hospital sites.

19. The Health Board recognises that the current H@N arrangements have been functioning in their current form for some time and need to be reviewed. Overall, only 21 per cent of consultants responding to our survey indicated that there had, in their main specialty/department, been any extension of the use of either H@N, H@D or H@W over the previous 18 months. Similarly, the Health Board is keen to see the role of nurse practitioner, where it can be demonstrated to be valuable, extended to other clinical services. The Health Board is considering a 're-launch' of H@N to provide fresh momentum for development of the service. The re-establishment of an H@N Group could add value by focusing on developing a more cohesive service based on the evaluation of current systems.

[2] The H@N concept is based on the notion of only having in work those who need to be at work by introducing generic multi-professional teams. These teams would have the competences required to meet patients' immediate needs.

20. While achievement of the 48-hour target has been important to the Health Board, assessing the extra cost associated with compliance is not straightforward. Additional costs have included medical and nursing costs across a range of specialties. Additional costs have been closely linked to other initiatives such as the 'New Deal', which was concerned with a range of measures to improve conditions for junior doctors. Therefore, there is no definitive costing for delivering EWTD compliance.

There are significant concerns about the overall impact of EWTD compliance on patient care

21. With junior doctors working less hours, continuity of care can be more difficult to deliver. When asked about the overall impact of the EWTD in their specialty/department, just under three quarters of consultants (72 per cent) pointed to a negative impact on the quantity of service provision. A similar proportion (71 per cent) pointed to the negative impact on the quality and safety of service provision. Many consultants commented that quality and safety were reduced because continuity of care was limited. They felt junior doctors had less experience of treating patients throughout their inpatient stay and opportunities to gain experience in ward, theatre and outpatient environments were more limited.

22. The reduction in junior doctor hours could be offset by increasing consultant working. Overall, 41 per cent of consultants pointed to the use of extended consultant cover over the previous 18 months in their specialty/department to support EWTD compliance.

23. Reductions in junior doctors' working time can affect adversely the time available for training and for working alongside more senior clinicians. The Royal College of Physicians recommends larger rota sizes of 12 or more participants to support training and development. Overall, the Health Board's average rota size is of around eight participants, with only a very small proportion (11 per cent of rotas) involving 12 participants or more. Of the 44 consultants who provided additional comments in our survey, over half raised concerns about the time available for junior doctors' training. They pointed to a slower acquisition of skills among junior doctors than had been achieved previously, due to extensive out-of-hours working with limited supervision and without the support of a team infrastructure.
The Health Board is considering the introduction of consultant posts that cover junior doctors' training and other consultant posts which deliver only clinical care. It is not yet clear how much impact this would have on improving training opportunities.

24. The quality of work performed by junior doctors is closely linked to the opportunity for training and development. One means of monitoring junior doctor skills is through the use of an Assessment Profile. These profiles enable a junior doctor's clinical performance across a range of procedures to be assessed as competent by a consultant or registrar. A junior doctor representative we spoke with reported that while he and his colleagues performed a number of these clinical procedures, they regularly experienced difficulties in organising assessments of clinical performance. These difficulties stemmed from junior doctors' working patterns and the limited opportunities to work alongside and be assessed by a senior doctor.

25. We understand that work is underway on one rota where there are compliance concerns related specifically to education and training opportunities. The Health Board has been discussing this rota (Integrated Medicine at Neath Port Talbot Hospital) with the Deanery.

Rota monitoring arrangements are in place but could improve and there is evidence that working time is not always accurately recorded

26. Under the provisions of the 'New Deal' contractual arrangements for junior doctors, the Health Board is expected to undertake twice yearly monitoring of junior doctor rotas. In addition, any new rotas should be monitored six weeks after implementation. The Health Board has some established arrangements for rota monitoring, co-ordinated by the Medical Human Resources department. However, evidence we received from the Welsh Government indicates that not all Health Board rotas are monitored twice during each year. Also, on a number of occasions the low level of junior doctor participation invalidates the exercise.

27. Monitoring provides the opportunity for junior doctors to self-record on the web-based rota system the shifts they have worked over a two-week period. However, junior doctors report that they do not always receive the rota monitoring requests because incorrect email addresses are used and amendments do not appear to be systematically recorded.

28. In completing monitoring returns, junior doctors cannot record the extra time they work after a shift finishes unless they have agreed the additional time with their consultant. Junior doctors report that it can be difficult to contact consultants in order to obtain agreement to stay beyond the end of a shift and therefore the amount of extra work undertaken by junior doctors is not accurately recorded. The inability to accurately record hours worked can deter junior doctors from completing the monitoring returns.

29. A junior doctor representative reported that that they frequently work over their rota hours to complete patient related tasks. Overall 24 per cent of consultants responding to our survey considered that junior doctors were still having to work over and above their contracted hours to meet the demands of the job. In addition, almost a third of consultant survey respondents (32 per cent) did not know whether junior doctors were working over and above their contracted hours. Although some pointed to an increasing clock watching mentality, others recognised that junior doctors were willingly undertaking additional work to support their personal development. Routinely working additional hours is not encouraged by the Health Board and it could have a potential impact on junior doctors' pay bandings leading to increased salary payments.

30. While vacancy levels are similar to those of other Health Boards, the inability to fill all junior doctor rotas is creating local difficulties. Where vacancies exist, junior doctors may temporarily work extra hours or locum cover is sought. Neither solution is ideal, and inevitably, flexibility in rotas is reduced. We understand that while vacancies remain a challenge, junior doctors are appropriately engaged in discussing options to cover rotas in the event of staff shortages. Proposed solutions also aim to ensure that the requirements of EWTD are still met.

31. Junior doctors can, if they wish to, 'opt out' of compliance with the 48-hour working week. There is evidence of this mechanism being used to a limited extent in Anaesthetics where junior doctors wish to undertake locum shifts, but it is not common across the Health Board.

EWTD compliance does not currently feature as part of the Health Board's assurance framework

32. Shortages on junior doctor rotas and issues relating to the impact of EWTD compliance are identified and addressed at locality/directorate level. However, EWTD compliance and any related service delivery issues do not yet feature clearly in the Health Board's corporate performance management arrangements.

33. The Medical Workforce Board, a sub-committee of the Workforce Modernisation Board, reviews medical vacancy levels particularly where there are known 'hot spots'. The focus is on difficult-to-fill posts and developing solutions on a temporary basis, such as with recent shortages of middle grades in Neurology. The Board does not currently monitor EWTD compliance.

34. The Health Board is developing a new 'Integrated Governance/Assurance Framework' for performance monitoring and management, which incorporates clinical and corporate governance. We understand that EWTD compliance will be included in the framework. However, it is not yet clear how the assessment of compliance or related service delivery issues will be reported.

Appendix 1

Consultant Questionnaire (2010) responses on EWTD

The information set out below is from a survey of Health Board employed consultants across Wales, which we conducted in 2010 as part of audit work on the consultant contract. We received a total of 580 responses across Wales, of which 110 were from the Abertawe Bro Morgannwg Health Board, with a total of 109 consultants completing the EWTD section.

	Percentage		Count	
Has the specialty/department in which you undertake most of your work undergone specific changes over the past 18 months in order to support compliance with the European Working Time Directive for junior doctors?	**ABMU LHB**	**Wales**	**ABMU LHB**	**Wales**
	Answered Yes	**Answered Yes**	**Answered Yes**	**Answered Yes**
Redesign of junior doctor rotas	72.7%	68.1%	80	395
Greater use of advanced nurse practitioners	34.5%	30.9%	38	179
Extended levels of consultant cover	46.4%	41.0%	51	238
Other workforce remodelling	8.2%	14.7%	9	85
Extended use of Hospital at Night/Hospital at Day/Hospital at Weekend approaches	20.9%	24.0%	23	139
Service reconfiguration	27.3%	21.0%	30	122
Other *	8.2%	10.2%	9	59

	Percentage		Count	
Has the specialty/department in which you undertake most of your work been granted a temporary derogation from the 48 hour average working time limit for junior doctors?	**ABMU LHB**	**Wales**	**ABMU LHB**	**Wales**
Yes	4.7%	6.5%	5	36
No	62.6%	65.2%	67	362
Don't know	32.7%	28.3%	35	157

	Percentage		Count	
In your experience, are junior doctors still having to regularly work over and above the hours set out in agreed rotas to meet the demands of the job?	**ABMU LHB**	**Wales**	**ABMU LHB**	**Wales**
Yes	24.3%	21.3%	26	118
No	43.9%	54.1%	47	300
Don't know	31.8%	24.7%	34	137

	Percentage		Count	
Thinking about the specialty/department in which you undertake most of your work, how would you describe the impact of the European Working Time Directive on: Junior doctors' training and skills development?	**ABMU LHB**	**Wales**	**ABMU LHB**	**Wales**
Positive impact	0.9%	1.4%	1	8
No impact	10.3%	13.4%	11	75
Negative impact	83.2%	78.5%	89	438
Don't know	5.6%	6.6%	6	37

	Percentage		Count	
Thinking about the specialty/department in which you undertake most of your work, how would you describe the impact of the European Working Time Directive on: The quantity of service provision in your specialty?	**ABMU LHB**	**Wales**	**ABMU LHB**	**Wales**
Positive impact	1.9%	1.6%	2	9
No impact	19.6%	19.7%	21	110
Negative impact	72.0%	72.0%	77	401
Don't know	6.5%	6.6%	7	37

	Percentage		Count	
Thinking about the specialty/department in which you undertake most of your work, how would you describe the impact of the European Working Time Directive on: The quality and safety of service provision in your specialty/department?	**ABMU LHB**	**Wales**	**ABMU LHB**	**Wales**
Positive impact	2.8%	2.7%	3	15
No impact	17.8%	25.8%	19	143
Negative impact	71.0%	63.4%	76	351
Don't know	8.4%	8.1%	9	45

	Percentage		Count	
Thinking about the specialty/department in which you undertake most of your work, how would you describe the impact of the European Working Time Directive on: Junior doctors' health and well-being?	**ABMU LHB**	**Wales**	**ABMU LHB**	**Wales**
Positive impact	11.2%	19.0%	12	106
No impact	33.6%	32.3%	36	180
Negative impact	31.8%	28.9%	34	161
Don't know	23.4%	19.7%	25	110

Wales Audit Office
24 Cathedral Road
Cardiff CF11 9LJ
Tel: 029 2032 0500
Fax: 029 2032 0600
Textphone: 029 2032 0660
E-mail: info@wao.gov.uk
Website: www.wao.gov.uk