

Cover Sheet

Public Trust Board Meeting: Wednesday 10 November 2021

TB2021.94

Title: Guardian of Safe Working Hours Quarterly Report
2021-22 – Quarter 2: July - September

Status: For Information

History: Quarterly update

Board Lead: Chief Medical Officer

Author: Miss Ruth Houlden; Deputy Guardian of Safe Working Hours &
Dr Robert Stuart; Guardian of Safe Working Hours

Confidential: No

Key Purpose: Assurance

Executive Summary

1. This report provides the Trust Board with information around contractually defined 'safe working hours' for OUH Doctors in Training; 2021-22 Quarter 2.
2. It has been interesting to observe different patterns of exception reporting between two departments where trainees have been reporting similar challenges. This supports the idea that the triggers for exception reporting are subjective and influenced by a number of factors.
3. Vacancies in trainee rotas continue to be cited as the reason for the majority of locum usage.
4. Breaches of the regulation 'the maximum 13 hour shift length' continue to account for the majority of Guardian-levied fines.
5. The process to identify how the organisational leadership can implement a local governance structure to optimise assurance relating to compliance with safe working hours is ongoing and has been evaluating electronic rostering tools as a means to support this goal

Recommendations

6. The Trust Board is asked to receive this report as information provided from within the organisation on the measures being taken in relation to quality assurance and improvement.

Guardian of Safe Working Hours Quarterly Report 2021-22 – Quarter 2: July - September

1. Purpose

1.1. This Quarterly Report on Safe Working Hours for doctors in training (Q2: Jul-Sep 2021) is presented to the Board with the aim of providing context and assurance around safe working hours for OUH Doctors in Training (also referred to as 'Trainees' and 'Junior Doctors').

2. Background

2.1. The Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016 state:

- The Guardian reports to the Board of the employer (and host organisation, if appropriate), directly or through a committee of the Board, as follows:
- The Board must receive a Guardian of Safe Working Report no less than once per quarter. This report shall also be provided to the JLNC, or equivalent. It will include data on all rota gaps on all shifts.
- A consolidated annual report on rota gaps and the plan for improvement to reduce these gaps shall be included in a statement in the Trust's Quality Account, which must be signed off by the Trust Chief Executive. This report shall also be provided to the JLNC, or equivalent.
- Where the Guardian has escalated a serious issue in line with Terms and Conditions paragraph 10(d) and the issue remains unresolved, the Guardian must submit an exceptional report to the next meeting of the Board.
- The Board is responsible for providing annual reports to external bodies as defined in these terms and conditions, including Health Education England (Local office), Care Quality Commission, General Medical Council and General Dental Council.
- There may be circumstances where the Guardian identifies that certain posts have issues that cannot be remedied locally, and require a system-wide solution. Where such issues are identified, the Guardian shall inform the Board. The Board will raise the system-wide issue with partner organisations (e.g. Health Education England, NHS England, NHS Improvement) to find a solution

3. Data Report

3.1. .High level data – Table 1

Number of OUH employees (approx. total)	12,000
Number of OUH doctors (approx. total)	1,800
Number of doctors in training (approx. total)	887
Number of junior doctor rosters (approx.)	190
Number of doctors in training on the new contract (approx. total)	
• Foundation year 1	88
• Foundation year 2	130
• Core Trainees (medical + surgical)	97
• General Practice	47
• Specialty Trainees	525
Job planned time for Guardian	8 hours / week
Job planned time for Deputy Guardian	4 hours / week
Job planned time for educational supervisors	1 hour / junior doctor / week

Data Management

3.2. As previously reported in more detail, the collection and reporting of data relating to the junior doctor workforce continues to be a challenge both locally and nationally.

Exception reports (with regard to working hours)

3.3. One hundred and thirteen exception reports were closed and one exception report remains open from Q2.

3.4. Three 'immediate concerns' were raised in Q3. Immediate concerns are clearly defined in the contract. All concerns raised as an immediate concern are reviewed promptly to ensure they meet the definition and to ensure patient/staff safety and care is not being compromised.

- Late finish and unable to take breaks due to very low staffing rates and in very warm weather.
- Last minute staffing absence on a night shift and not able to source locum cover resulting in need to undertake significant additional duties.
- Volunteered to do night shifts from 9pm-9am on each day (originally rostered on day shifts from 9am-9pm on each day) due to no radiology registrar cover for two nights.

3.5. Oncology trainees submitted the most exception reports during this quarter (30), informally the Guardian is aware of rota gaps and service pressures within this specialty and will provide a copy of this data to the department and Director of Medical Education

Locum Bookings / Locum work carried out by Junior Doctors

3.6. The total use of locums (as measured by shifts) increased from 2268 (Q1) to 2711 (Q2).

3.7. 'Vacancy' accounted for about 76% of locum shifts.

3.8. Whilst 'sick' was the reason given for 6% of locum shifts. 'COVID-19' or 'Self-isolation COVID' accounted for an additional 9.5% of locum shifts.

Work Schedule Reviews

3.9. Whilst there have been no work schedule reviews at a departmental level in this quarter, the Guardian regularly receives enquiries from trainees who are concerned that their departmental rotas are different from the centrally recorded work schedule. At an individual level, these concerns are normally resolved with discussion between the departmental rota manager and the central medical staffing team.

Rota Gaps / Vacancies

3.10. Contractually this report; 'will include data on all rota gaps on all shifts'

3.11. There is no central collation of trainee vacancy data. The management of vacancies is largely devolved to a number of individuals who are responsible for managing the 178 junior doctor rotas.

Fines

3.12. Contractually; 'the Guardian of safe working hours will review all exception reports copied to them by doctors to identify whether a breach has occurred which incurs a financial penalty'. In practice this Guardian review is not always possible as the exception reporting software does not reliably identify all types of breach.

3.13. Eighteen fines were levied, ten of which have been paid and eight are outstanding in Q2.

- Eight of these fines originated in Cardiology
- Four of these originated in Oncology
- Five from General Medicine

3.14. Seventeen fines were levied in this quarter due to 'A breach of the maximum 13 hour shift length' and of those paid totalled £1097.00.

3.15. One fine was levied due to 'A breach of the maximum of 72 hours worked across a consecutive 168 hour period' This fine totalled £1377.00

4. Subjective Report

COVID-19; suspension of contractual provisions

4.1. The agreed contractual flexibilities as a result of the COVID-19 pandemic have now been terminated and have reverted to the contractual position to that set out in the Terms and Conditions of Service.

Compliance with Safe Working Hours governance

4.2. During this quarter particular concerns have been raised on the SEU and Neurosurgery Rotas.

- 4.2.1. Exception reports from SEU trainees this year appear to reflect this (55% of all General Surgery exception reports were from SEU).

4.2.2. In Neurosurgery attrition of locally employed doctors (clinical fellows) over the year appears to impact significantly on workload intensity toward the end of the academic year. This was highlighted as a result of previous long-term GMC monitoring replaced by ongoing internal assessment of the raised concerns. Therefore, at the start of the quarter this was a current issue which has been resolved by rotation of junior doctors, but needs to be highlighted to halt this being a recurrent pattern. No exception reports from trainees in neurosurgery were submitted in this quarter, this is believed to be a reflection of reporting culture, rather than safe working hours.

Junior Doctors Forum

4.3. Trainees are currently nominating / electing a new cohort of core JDF representatives. In addition to the elected core group, all junior doctors (trainees and locally employed doctors) are invited to these open meetings.

4.4. Trainees have all now been repatriated to their appropriate/scheduled rotations. There is still a considerable amount of work which needs to be made with regard to recovery of training as a result of the pandemic. This has been escalated, via the DMEs, to the relevant schools.

4.5. Following a consultation process, it has been decided that the fatigue and facilities charter funding will be allocated to provision of lockers for all trainees. During the process it was highlighted that there is a wider concern about the provision of rest space across the trust. (There is variation across the hospital sites as to the availability of these). The guardian has asked for JDF representatives to meet with estates and finance to establish responsibilities and ground rules regarding this.

5. Recommendations

5.1. The Trust Board is asked to as information provided from within the organisation on the measures being taken in relation to quality assurance and improvement.

Appendix 1

Summary of OUH exception reports: Jul/Aug/Sep.2021					
		Jul	Aug	Sep	Total
Reports	Total	46	38	30	114
	Closed	46	38	29	113
	Open	-	-	1	1
<i>The data below relates to the 113 closed exception reports only</i>					
Individual doctors / specialties reporting	Doctors	16	18	13	39
	Specialties	8	7	7	12
Immediate concern		3	-	-	3
Nature of exception	Hours & Rest	43	37	29	109
	Education	5	1	0	6
Additional hours (‘Hours & Rest’ exception reports only)	Hours (plain time)	45.8	37.0	23.8	106.6
	Hours (night time)	47.0	13.3	16.0	76.3
	Total hours	92.8	50.3	39.8	182.9
	Hours per exception report	2.2	1.4	1.4	1.7
Response	Agreed	45	38	28	111
	Not Agreed	1	-	1	2
Agreed Action (‘No action required’ is the default action for ‘education’ exceptions)	Time off in lieu	23	31	26	80
	Payment for additional hours	19	5	2	26
	No action required	3	2	-	5
Grade	F2	16	20	14	50
	F1	11	16	4	31
	StR	18	2	5	25
	CMT	1	-	6	7
Exception type (more than one type of exception can be submitted per exception report)	Late finish	39	34	28	101
	Unable to achieve breaks	9	7	8	24
	Exceeded the maximum 13-hour shift length	6	4	7	17
	Minimum 11 hours rest between resident shifts	2	-	6	8
	Difference in work pattern	2	2	1	5
	Early start	2	1	1	4
	Unable to attend scheduled teaching/training	2	1	-	3
	Unable to attend clinic/theatre/session	2	-	-	2
	72 hours work in 168 hours	-	1	-	1
	Teaching cancelled	1	-	-	1
8 hours total rest per 24-hour NROC shift	1	-	-	1	
Specialty	Medical Oncology	21	3	6	30
	General Medicine	9	10	5	24
	Cardiology	-	6	10	16
	OMFS	-	10	4	14
	General Surgery	5	5	1	11
	Geriatric Medicine	1	3	-	4
	Plastic Surgery	4	-	-	4
	Adult Intensive Care Unit	-	1	2	3
	Urology	3	-	-	3
	Neurology	2	-	-	2
	Diagnostic Radiology	1	-	-	1
	Paediatric Surgery	-	-	1	1

Appendix 2

Summary of OUH Locum Filled Shifts: Jul/Aug/Sep.2021					
		Jul	Aug	Sep	Total
Locum Shifts	Total	1055	902	754	2711
	Bank	991	758	597	2346
	Agency	64	144	157	365
Grade	Core	532	425	297	1254
	Specialty	437	346	324	1107
	Foundation	69	130	132	331
	Medical Students	14	-	-	14
	Unassigned	3	1	1	5
Specialty (top 20 specialties only)	Orthopaedic and Trauma Surgery	153	119	130	402
	Acute Medicine	136	117	47	300
	Cardiothoracic Surgery	41	119	125	285
	Emergency Medicine	81	103	71	255
	General Surgery	103	66	80	249
	Medicine	87	46	35	168
	Cardiothoracic Medicine	43	39	42	124
	Obstetrics and Gynaecology	26	55	38	119
	Neurosurgery	71	12	9	92
	Palliative Medicine	24	24	28	76
	Oral and Maxillofacial surgery	22	26	13	61
	Rehabilitation Medicine	1	26	21	48
	Respiratory/Chest Medicine	25	7	15	47
	Vascular Surgery	21	8	15	44
	Plastic Surgery	21	6	5	32
	Oncology	11	10	9	30
	Renal Medicine	15	15	-	30
	ENT	23	6	-	29
	Gastroenterology	8	11	10	29
Paediatric Surgery	3	16	6	25	
Reason	Vacancy	764	681	610	2055
	Covid-19	115	68	70	253
	Extra Cover	67	69	35	171
	Sick	88	46	31	165
	Other	11	33	1	45
	Pregnancy/Maternity Leave	4	4	3	11
	Compassionate/special leave	1	1	2	4
	Self Isolation Covid-19 auto approve	4	-	-	4
	Study Leave	-	-	2	2
	Annual Leave	1	-	-	1
Division	Medicine Rehabilitation and Cardiac	421	432	342	1195
	Neurosciences Orthopaedics Trauma Specialist Surgery Children's and Neonatal	346	239	190	775
	Surgery, Women's and Oncology	231	189	46	466
	Not Mapped	56	42	176	274
	Clinical Support Services	1	-	-	1