

Cover Sheet

Public Trust Board Meeting: Wednesday 10 May 2023

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Title: Guardian of Safe Working Hours Quarterly Report Q4: January – March 2023

Status: For Information

History: Quarterly update

Board Lead: Chief Medical Officer

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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; 2022-23 Quarter 4.
2. The total number of exception reports submitted in this quarter was 292, which is below that of the preceding 2 quarters of this financial year, but higher than that of the same quarter in the previous financial year (2022).
3. The commonest reason for exception reporting was 'Late Finish' with 'Working in Excess of 13hrs' being the commonest regulation breach resulting in a fine.
4. The first industrial action undertaken by junior doctors occurred in this quarter. Trainees were encouraged to use the exception reporting system to flag any changes to their working hours resulting from this.
5. Locum usage has been comparable to the previous quarters this year. There is an overall increased trend for locum usage compared to previous financial years. It should be noted that due to the junior doctor's strike there will have been consultant locum usage that is not reflected here.
6. Challenges relating to communication with doctors in training was highlighted when no trainees attended a meeting organised for them (Junior Doctors Industrial Action Q&A).
7. The provision of Guardian-assessed assurance of the Trust's performance is hampered by the absence of processes designed to support the safe working hours' obligations described in the Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016. This includes the lack of defined medical staffing administrative capacity.

Recommendations

The Trust Board is asked to receive this report for information.

Guardian of Safe Working Hours Quarterly Report Q4: January – March 2023

1. Purpose

1.1. This Quarterly Report on Safe Working Hours for doctors in training (Q4: Jan-Mar 2023) 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. Report Limitations

- 2.1. A number of limitations in providing meaningful assurance should be noted; including the reliance on ad hoc/voluntary feedback, the absence of defined corporate administrative support with consequent availability of information related to this matter.
- 2.2. The absence of reports of non-compliance does not necessarily indicate compliance, and the guardian suggests interpreting the report with caution due to these limitations.

3. Background

3.1. 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.

3.2. 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.

4. Q4 Report

4.1. 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)	903 (715 FT, 188 LTFT)
Number of junior doctor rosters (approx.)	200
Number of doctors in training on the new contract (approx. totals)	
1. Foundation year 1	85
2. Foundation year 2	117
3. Core Trainees (medical + surgical)	101
4. General Practice	39
5. Specialty Trainees	556 (+5 Dental Trainees)
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

Exception reports (with regard to working hours) – Appendix 1

- 4.2. Two hundred and thirty six exception reports were closed, and fifty six exception reports remain open, (quarterly average = 140 / range 46 – 374).
- 4.3. Two 'immediate concerns' arising in 2 specialties (General Medicine and Neurology) were raised in Q4 by 2 different doctors; the threshold to submit such concerns is subjective.
- 4.4. In both cases concerns raised related to safe medical staffing levels. With one doctor expected to cover the post of vacant roster slots with resultant increase in workload. Both were escalated to the supervising lead clinician.

Locum Bookings / Locum work carried out by Junior Doctors – Appendix 2

- 4.5. For this quarter, a total of 4,259 locum shifts were filled, with 77% of shifts filled by bank locums and 23% by agency locums. Orthopaedic and Trauma Surgery remained the most frequently used specialty, accounting for 18% of all locum shifts. 77% of all locum shifts were filled due to vacancies, (quarterly average = 3190 / range 2361 – 4492).

Work Schedule Reviews

- 4.6. The Guardian requested information regarding central work schedule reviews. These have not been provided within the timescale required, however, the CMO and CPO teams have discussed and agreed appropriate escalation and communication processes to ensure that these are included in the next report.

Rota Gaps / Vacancies

- 4.7. Contractually this report; 'will include data on all rota gaps on all shifts'
- 4.8. There is no central collation of trainee vacancy data. The management of vacancies is largely devolved to individual managers who are responsible for the junior doctor rotas.

Fines

- 4.9. 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 Guardian review is not always possible as the exception reporting software doesn't reliably identify all types of breach.
- 4.10. In Q4, 31 exception reports described a possible breach of working hours regulations (11% of total exception reports).
- 4.11. Details relating to the fines (e.g. total cost) were not made available by the central medical staffing team, for this quarter, in time for this report. As above, this will be resolved for next time.

Safe Working Hours Assurance

- 4.12. There is an operational corporate framework for safe hours scheduling; the framework appears to be contractually compliant (provision of compliant 'Work Schedules' and an electronic process to report exceptions when there is variance to rostered hours).
- 4.13. There is no corporate provision of safe working hours performance data to the Guardian; instead, is dependent receiving limited information from the Guardian (limited by the lack of any defined administrative support for this duty). Proposals for strengthening this are currently being explored.
- 4.14. In the absence of safe hours performance data, the Guardian is highly dependent on Exception Reporting data (itself limited and non-representative)
- 4.15. Assurance in this matter relies on limited evidence for the absence of non-compliance and therefore is assessed by the Guardian as adequate at best.

Recommendations

- 4.16. The Trust Board is asked to receive this report for information.

Summary of OUH exception reports: Jan/Feb/Mar.2023					
		Jan	Feb	Mar	Total
Reports (all reports submitted within 2 weeks of quarter ending)	Total	100	101	91	292
	Closed	89	83	64	236
	Open	11	18	27	56
<i>The data below relates to the 236 closed exception reports only</i>					
Individual doctors / specialties reporting	Doctors	42	45	30	77
	Specialties	17	16	14	21
Immediate concern		1	1	-	2
Nature of exception	Hours & Rest	89	81	62	232
	Education	3	9	5	17
Additional hours ('Hours & Rest' exception reports only)	Hours (plain time)	92.3	124.7	79.5	296.5
	Hours (night-time)	23.3	17.0	9.5	49.8
	Total hours	115.6	141.7	89.0	346.3
	Hours per exception report	1.3	1.7	1.4	1.5
Response	Agreed	89	82	64	235
	Not Agreed	-	1	-	1
Agreed Action ('No action required' is the default action for 'education' exceptions)	Time off in lieu	66	69	50	185
	Payment for additional hours	13	9	7	29
	No action required	10	5	7	21
Grade	F1	37	35	22	94
	F2	29	23	15	67
	StR	17	18	18	53
	CMT	6	7	8	21
	GPVTS	-	-	1	1
Exception type (more than one type of exception can be submitted per exception report)	Late finish	84	74	59	217
	Unable to achieve breaks	20	15	13	48
	Early start	6	9	10	25
	Exceeded the maximum 13-hour shift length	10	13	1	24
	Minimum 11 hours rest between resident shifts	5	8	1	14
	Difference in work pattern	3	3	7	13
	Unable to attend scheduled teaching/training	3	6	3	12
	Minimum overnight continuous rest per NROC shift	1	2	1	4
	Unable to attend clinic/theatre/session	1	2	-	3
	Inadequate clinical exposure/experience	-	1	-	1
	Minimum total rest per 24-hour NROC shift	-	1	-	1
Specialty	General Medicine	15	29	20	64
	General Surgery	11	9	8	28
	Medical Oncology	8	11	7	26
	Cardiology	6	6	4	16
	Cardio-vascular disease	8	4	3	15
	Neurosurgery	8	4	1	13
	Gastroenterology	3	4	5	12
	Geriatric Medicine	7	3	2	12
	Respiratory medicine	-	3	7	10
	Neonatal medicine	5	2	1	8
	Neurology	4	3	-	7
	Paediatric Surgery	5	-	1	6
	Orthopaedic surgery	3	1	-	4
	Obstetrics and gynaecology	-	1	2	3
	Renal medicine	2	1	-	3
	Adult Intensive Care Unit	-	-	2	2
	Haematology	1	-	1	2

	Traumatic and Orthopaedic Surgery	1	1		2
	Anaesthetics	1	-	-	1
	Paediatrics	1	-	-	1
	Urology	-	1	-	1

Appendix 2 – Locum Data

Summary of OUH Locum Filled Shifts: Jan/Feb/Mar.2023					
		Jan	Feb	Mar	Total
Locum Shifts	Total	1,474	1,348	1,437	4,259
	Bank	1,138	1,057	1,075	3,270
	Agency	336	291	362	989
Grade	Specialty	676	653	723	2052
	Core	689	621	654	1964
	Foundation	109	74	60	243
Specialty (top 20 specialties only)	Orthopaedic and Trauma Surgery	239	225	301	765
	Acute Medicine	170	101	129	400
	Emergency Medicine	118	118	105	341
	Cardiothoracic Surgery	121	105	71	297
	General Surgery	106	46	66	218
	Neurosurgery	57	60	67	184
	Cardiothoracic Medicine	24	56	79	159
	Medicine	42	62	45	149
	Endocrinology and Diabetes	38	45	43	126
	Oncology	32	51	38	121
	Spinal Services	31	32	46	109
	Urology	36	30	42	108
	Palliative Medicine	26	54	24	104
	Neonatal Intensive Care	37	22	38	97
	Orthogeriatrics	18	36	41	95
	Oral and Maxillofacial surgery	31	39	22	92
	Dermatology	35	26	29	90
	Paediatric Surgery	22	34	29	85
	Obstetrics and Gynaecology	17	30	26	73
	Haematology	33	23	16	72
Reason	Vacancy	1112	1050	1102	3264
	Other	120	82	106	308
	Extra Cover	99	81	68	248
	Sick	75	72	60	207
	COVID-19	37	27	27	91
	Industrial Action Cover	-	-	63	63
	Exempt from On Calls	5	10	3	18
	Annual Leave	1	15	-	16
	Study Leave	5	5	3	13
	Paternity Leave	6	5	-	11
	Compassionate/Special Leave	4	1	5	10
	Pregnancy/Maternity Leave	10	-	-	10
Division	Neurosciences Orthopaedics Trauma and Specialist Surgery	486	483	588	1557
	Medicine Rehabilitation and Cardiac	615	468	461	1544
	Surgery Women and Oncology	305	283	248	836
	Not Mapped	65	111	138	314
	Clinical Support Services	3	3	2	8