

Cover Sheet

Public Trust Board Meeting: Wednesday 09 November 2022

TB2022.100

Title: Guardian of Safe Working Hours Quarterly Report Quarter 2: July – September 2022

Status: For Information
History: Regular reporting

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 2.
2. The total number of exception reports submitted in this quarter (374) is the highest on record at OUH.
3. The number of exception reports describing a breach of working hours regulations (incurring a fine) has fallen in this quarter.
4. Recurring differences between centrally managed work schedules and departmentally created rotas raises questions relating to the compatibility of the mechanism to ensure safe service delivery (managing rota gaps/vacancies) with that of ensuring safe working hours for Doctors in Training.
5. Safe working hours governance is dependent on numerous administrative processes. To date the OUHFT administrative provision for safe working hours governance and the guardian remains undefined and ad hoc.
6. In the absence of defined administrative provision for safe working hours governance, administrative activity is subsumed by the guardian in lieu of guardian-dependent activity such as intervening with support to resolve safe hours concerns or providing purposeful assurance to the OUHFT Board.

Recommendations

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

Guardian of Safe Working Hours Quarterly Report Quarter 2: July – September 2022

1. Purpose

1.1. This Quarterly Report on Safe Working Hours for doctors in training (Q2: Jul-Sep 2022) 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.

2.2. 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

3. Q2 Report

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)	917
Number of junior doctor rosters (approx.)	200
Number of doctors in training on the new contract (approx. total)	
• Foundation year 1	86
• Foundation year 2	114
• Core Trainees (medical + surgical)	104
• General Practice	44
• Specialty Trainees	569
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

3.1. 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) – Appendix 1

3.2. Three hundred and seventy two exception reports were closed, and two exception reports remain open, (quarterly average = 132 / range 46 – 374).

3.3. The total number of exception reports is the highest recorded and has increased by 45% compared to the previous highest quarter.

3.4. Increases (%) in exception reporting have been observed by specialty (general medicine (36%), general surgery (108%)) and by grade (foundation (97%)).

3.5. Four 'immediate concerns' arising in three specialties (oncology / general surgery / neurosurgery) were raised in Q2; the threshold to submit such concerns is subjective;

- All four concerns described unfilled rota gaps with a consequent increase in work intensity. The reporting trainees escalated their concerns to service leads.

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

3.6. The total use of junior doctor locums (as measured by shifts) increased by 13% from 3849 (Q1) to 4344 (Q2).

3.7. Vacancy is cited most commonly as the reason for locum usage.

Work Schedule Reviews

3.8. Examples of differences between departmentally managed duty rosters and work schedules continue to emerge, with consequent breaches of working time regulations.

3.9. These breaches are not readily recognisable, because contractually defined safe working hours governance assumes that such differences do not exist.

3.10. Reported differences between registered work schedules and actual departmental duty rosters have triggered work schedule reviews between the central medical staffing teams and the following specialties:

- Trauma and Orthopaedics
- Haematology

Rota Gaps / Vacancies

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

3.12. 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

3.13. 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.

3.14. In Q2, 35 exception reports described a possible fine (9% of total exception reports), this has reduced by 19% compared to Q1 (43 reports or 17% of total Q1 exception reports).

4. Compliance with Safe Working Hours Contractual Requirements

4.1. Previous Guardian Board reports recognise an opportunity at OUH to improve organisational oversight in this matter:

- Safe working hours governance is dependent on numerous administrative processes. To date the OUHFT administrative provision for safe working hours governance and the guardian remains undefined and ad hoc. Consequently, due to competing priorities, this administrative provision is variable and determined by factors unrelated to safe working hours requirements.
- In the absence of defined administrative provision for safe working hours governance, administrative activity is subsumed by the guardian in lieu of guardian-dependent activity such as intervening with support to resolve safe hours concerns or providing purposeful assurance the OUHFT Board.

5. Recommendations

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

Appendix 1

Summary of OUH exception reports: Jul/Aug/Sep.2022					
		Jul	Aug	Sep	Total
Reports (all reports submitted within 2 weeks of quarter ending)	Total	77	147	150	374
	Closed	77	145	150	372
	Open	-	2	-	2
<i>The data below relates to the 372 closed exception reports only</i>					
Individual doctors / specialties reporting	Doctors	30	68	66	118
	Specialties	15	18	17	26
Immediate concern		1	2	1	4
Nature of exception	Hours & Rest	74	138	143	355
	Education	9	13	9	31
Additional hours ('Hours & Rest' exception reports only)	Hours (plain time)	87.0	213.4	151.6	452.0
	Hours (night-time)	17.8	16.8	28.6	63.1
	Total hours	104.8	230.2	180.2	515.1
	Hours per exception report	1.4	1.7	1.3	1.5
Response	Agreed	77	144	147	368
	Not Agreed		1	3	4
Agreed Action ('No action required' is the default action for 'education' exceptions)	Time off in lieu	27	80	95	202
	Payment for additional hours	42	55	43	140
	No action required	8	10	12	30
Grade	F1	17	62	68	147
	F2	17	47	33	97
	StR	17	26	41	84
	CMT	25	9	7	41
	GPVTS	1	1	1	3
Exception type (more than one type of exception can be submitted per exception report)	Late finish	64	122	129	315
	Unable to achieve breaks	15	19	24	58
	Exceeded the maximum 13-hour shift length	6	10	9	25
	Unable to attend scheduled teaching/training	6	10	7	23
	Difference in work pattern	2	10	6	18
	Early start	3	8	7	18
	72 hours work in 168 hours	7	7	3	17
	Minimum 11 hours rest between resident shifts	1	4	2	7
	Request a work schedule review	1	3	0	4
	Minimum overnight continuous rest per NROC shift not achieved	-	-	2	2
	Inadequate supervision	-	1	-	1
	Minimum total rest per 24-hour NROC shift not achieved	-	-	1	1
	Unable to attend clinic/theatre/session	1	-	-	1
Specialty	General Medicine	21	43	56	120
	General Surgery	3	28	21	52
	Medical Oncology	8	12	10	30
	OMFS	-	13	9	22
	Obstetrics and gynaecology	3	6	12	21
	Accident and emergency	-	11	7	18
	Renal medicine	5	6	7	18
	Paediatrics	1	2	10	13
	Urology	3	4	3	10

Respiratory medicine	9	-	-	9
Infectious diseases	2	4	2	8
Orthopaedic surgery	5	2	-	7
Geriatric Medicine	4	2	-	6
Haematology	1	3	2	6
Neonatal medicine	6	-	-	6
Neurosurgery	-	1	5	6
Cardiology	4	-	-	4
Neurology	-	2	2	4
Gastroenterology	-	3	-	3
Oral (and Maxillo-Facial) surgery	2	-	-	2
Paediatric Surgery	-	-	2	2
Traumatic and Orthopaedic Surgery	-	2	-	2
Cardio-thoracic Surgery	-	1	-	1
Cardio-vascular disease	-	-	1	1
Psychiatry	-	-	1	1

Appendix 2

Summary of OUH Locum Filled Shifts: Jul/Aug/Sep.2022					
		Jul	Aug	Sep	Total
Locum Shifts	Total	1650	1469	1225	4344
	Bank	1307	1011	865	3183
	Agency	343	458	360	1161
Grade	Specialty	780	665	535	1980
	Core	662	547	408	1617
	Foundation	205	256	282	743
	Unassigned	3	1	0	4
Specialty (top 20 specialties only)	Orthopaedic and Trauma Surgery	254	259	223	736
	Acute Medicine	215	224	83	522
	Emergency Medicine	171	120	92	383
	Cardiothoracic Surgery	105	143	115	363
	Cardiothoracic Medicine	89	96	113	298
	General Surgery	102	98	93	293
	Medicine	158	103	22	283
	Haematology	50	60	55	165
	Spinal Services	26	65	41	132
	Neurosurgery	46	38	42	126
	Obstetrics and Gynaecology	60	36	21	117
	Palliative Medicine	56	33	21	110
	Respiratory	15	26	41	82
	Urology	29	11	27	67
	Oncology	27	12	19	58
	Gastroenterology	20	14	22	56
	Care of the Elderly	9	14	29	52
	Oral and Maxillofacial surgery	26	2	20	48
	Neonatal Intensive Care	19	23	4	47
Paediatric Surgery	27	6	11	44	
Reason	Vacancy	1067	991	953	3011
	COVID-19	353	258	38	649
	Extra Cover	110	83	86	279
	Sick	71	33	83	187
	Other	10	93	24	127
	Pregnancy/Maternity Leave	22	-	9	31
	Exempt from On Calls	4	2	11	17
	Study Leave	3	-	14	17
	Compassionate/Special Leave	10	2	1	13
	Annual Leave	-	6	4	10
	Self-Isolation COVID-19 Auto Approved	-	1	2	3

Division	Medicine Rehabilitation and Cardiac	697	617	376	1690
	Neurosciences Orthopaedics Trauma and Specialist Surgery	480	416	390	1286
	Surgery Women and Oncology	367	290	283	940
	Not Mapped	106	146	176	428
	Clinical Support Services	-	-	-	0