

Cover Sheet

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Title: Guardian of Safe Working Hours Quarterly Report Quarter 4: January
– March 2022

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; 2021-22 Quarter 4.
2. The total number of exception reports submitted in this quarter like Q3 was again double the historical average; a cause for this increase is not explained by associated exception reporting data.
3. 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.
4. 'Vacancy' in trainee rotas continues to be cited as the reason for most of the reported locum usage.
5. The widely reported challenges of accessing 'space' at OUH for all staff groups has adversely affected how the Fatigue and Facilities Charter funding is used.
6. Breaches of the regulation 'the maximum 13 hour shift length' continue to account for the majority of Guardian-levied fines (high proportion of all ERs = fine (13 hour breach and consequent rest period)).
7. Processes described within the 2016 TCS designed to mitigate against the risks associated with excess working hours have been implemented at OUH. Enhancements to the associated governance framework would provide an opportunity at OUH to better understand the impact of these processes at an organisational level.

Recommendations

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

Guardian of Safe Working Hours Quarterly Report Quarter 4: January – March 2022

1. Purpose

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

3.1. 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. Two hundred and eight exception reports were closed, and ten exception reports remain open from Q4, (quarterly average = 108 / range 46 – 222). Of the ten open exception reports, nine relate to education and one to working hours.

3.3. The total number of exception reports is grossly stable when compared Q3, but again is at the higher end of the historical range.

3.4. The variation seen in the number of additional hours worked per exception report over the three month period reflects the variation in how trainees report (block reporting of multiple shifts vs. single shift reporting).

3.5. Two 'immediate concerns' were raised, reviewed and closed in Q4; the threshold to submit such concerns is subjective;

- One report described a busy shift in Geriatric Medicine at the John Radcliffe Hospital related to COVID-19, causing the trainee to finish 45 minutes late. The reporting trainee escalated the matter to their supervising consultant.
- The second immediate concern described an intense shift in Infectious Diseases at the John Radcliffe Hospital, again related to COVID-19; the reporting doctor noted 'absolutely brilliant' support from the nursing team and ever-present consultant support. The concern was the focus of one of the ward's Safety Huddles.

- 3.6. For the third successive quarter oncology trainees submitted the most exception reports (49), a copy of this data and an offer to discuss has been provided to the departmental training leads.
- 3.7. In December 2021 about one quarter of the Foundation Year 2 trainees completed a self-commissioned exception reporting survey; during this quarter they shared their results with the Foundation Training Programme Directors and a more formal review of the survey is scheduled for the Foundation governance group meeting to be held in May 2022.

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

- 3.8. The total use of locums (as measured by shifts) decreased from 2422 (Q3) to 1356 (Q4).
- 3.9. At first glance locum usage appears to have significantly fallen in February and March of this year, but it has done so by a similar magnitude across divisions, specialties and grades, and it is therefore likely there is an error with data recording (the documented data have been reviewed multiple times).
- 3.10. Proportionally 'Vacancy' still accounts for the majority of locum shifts.

Work Schedule Reviews

Paediatric Surgery (Foundation):

- 3.11. As previously reported, this group of trainees identified a difference between their generic work schedule (centrally assessed for compliance and registered with payroll), and the departmentally provided timetable. The discrepancy related to the scheduling of 'self-development time'.
- 3.12. The guardian has noted the organisational response to this group of trainees (pay correction for the difference between actual hours of work and work scheduled hours for each of the trainees for the whole period of concern). Additionally, the guardian has identified that some of the actual hours of work breached contractually defined safe hours and attracts a 'Guardian Fine' and has put this forward to the trainees as part of the compensatory solution. At the time of writing, it looks as though this group of trainees is pursuing a solution they have agreed with their Trade Union.

Other specialties:

- 3.13. The guardian has not conducted any formal work schedule reviews in this quarter.

Rota Gaps / Vacancies

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

- 3.15. There is no central collation of trainee vacancy data. The management of vacancies is largely devolved to individual managers who are responsible for the 178 junior doctor rotas.

Fines

- 3.16. 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.
- 3.17. 31 exception reports described a possible fine. To date 15 fines have been levied, and 16 additional potential fines have been identified awaiting additional information in Q4. (The assessment of fines quantitative and qualitative information not provided by the tool used for exception reporting).
- 3.18. The 15 fines originated in 6 different specialties and totalled £3216. The most common reason cited; "Exceeded the maximum 13-hour shift length".

4. Subjective Report

Junior Doctors Forum

- 4.1. In response to the Trust's commitment to meet objectives of the Fatigue and Facilities' charter, they were awarded supportive funding; OUH received the higher amount (the trusts assessed to be in greatest need to improve their rest facilities received the higher amount).
- 4.2. As previously reported (IAAC2022.Feb) Junior Doctors in Training at OUH have agreed how they would like the 'Fatigue and Facilities' charter funding to be used.
- 4.3. Despite this agreement, it has still not been possible to identify the space needed to accommodate any items procured. The Guardian is convening a meeting of the stakeholder group.

Safe Working Hours Governance and Assurance

- 4.4. Processes described within the 2016 TCS designed to mitigate against the risks associated with excess working hours have been implemented at OUH (compliant work scheduling, exception reporting, work schedule reviews, junior doctors' forum, guardian of safe working hours, guardian board reports) and are available to the stakeholder group.
- 4.5. There are examples of these processes being effectively used by individual doctors and departments to ensure that their issues of compliance with contractually defined safe working hours are addressed. It is not however possible to demonstrate if these individual examples translate into assurance at collective levels (Directorate, Division, Organisation (Regional, National)).

- 4.6. During this quarter, a number of individual Doctors in Training contacted the guardian with concerns that their departmentally managed duty roster was different to their work schedule (usually due to the necessary management of rostering gaps), but most wanted to remain anonymous (the guardian has advised them that one route for concerns to be raised anonymously is through their JDF representative).
- 4.7. The service level management of rostering gaps to ensure safe service delivery can be in conflict with the management with safe working hours.
- 4.8. Given the number of enquires received by the guardian relating to differences between theoretical working hours (work schedule) and actual hours of work (departmental duty roster) the guardian isn't confident that the current mechanisms to ensure both safe service delivery (adequate medical cover) and safe working hours for Doctors in Training are compatible with each other. At the time of writing, these ad hoc enquiries are individually managed as they arise (doctors, departmental and central medical staffing teams, guardian).
- 4.9. The guardian would be better placed to provide an objective report on work schedule compliance and therefore safe working hours compliance, if a standardised trust-wide governance process was in place. The electronic medical rostering task and finish group commissioned by the Chief People and chaired by the Director of Medical Workforce have reviewed available rostering systems; when compared to tools already utilised by the trust, there is no evidence that alternative products offer an advantage in strengthening the governance processes relating to safe working hours.
- 4.10. There is an opportunity at OUH to improve organisational oversight in this matter:
- Redesign of the associated governance framework to ensure that operational teams are empowered to review and act on the data within the context of their Divisional governance framework. This process can be supported by the guardian.
 - Better utilise guardian capability to improve quality in this area by ensuring that associated administrative tasks do not consume an inappropriate proportion of guardian capacity (whilst the appointment of the Deputy Guardian has increased capacity this year, there has been a disproportionate loss of administrative support). If accepted, the redesign of the governance framework should also contain an agreed administrative structure.

5. Recommendations

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

Appendix 1

Summary of OUH exception reports: Jan/Feb/Mar.2022					
		Jan	Feb	Mar	Total
Reports (all reports submitted within 2 weeks of quarter ending)	Total	65	66	87	218
	Closed	63	62	83	208
	Open	2	4	4	10
<i>The data below relates to the 208 closed exception reports only</i>					
Individual doctors / specialties reporting	Doctors	24	24	34	60
	Specialties	13	12	16	23
Immediate concern		-	-	2	2
Nature of exception	Hours & Rest	62	62	83	207
	Education	2	2	1	5
Additional hours ('Hours & Rest' exception reports only)	Hours (plain time)	90.3	238.0	101.2	429.5
	Hours (night-time)	32.8	30.3	18.8	81.8
	Total hours	123.0	268.3	120.0	511.2
	Hours per exception report	2.0	4.3	1.4	2.5
Response	Agreed	63	60	81	204
	Not Agreed	-	2	2	4
Agreed Action ('No action required' is the default action for 'education' exceptions)	Payment for additional hours	41	35	26	102
	Time off in lieu	19	23	53	95
	No action required	3	2	2	7
Grade	F1	19	28	22	69
	CMT/IMT	25	16	19	60
	StR	19	17	20	56
	F2	-	1	12	13
	GPVTS	-	-	10	7
Exception type (more than one type of exception can be submitted per exception report)	Late finish	53	57	78	188
	Unable to achieve breaks	5	12	15	32
	Exceeded the maximum 13-hour shift length	6	10	7	23
	Early start	7	8	6	21
	Difference in work pattern	6	5	3	14
	Minimum 11 hours rest between resident shifts	4	3	5	12
	Unable to attend scheduled teaching/training	1	2	1	4
	Minimum overnight continuous rest per NROC shift not achieved	2	1	0	3
	> 72 hours work in 168 hours	-	1	-	1
	Minimum total rest per 24-hour NROC shift not achieved	-	1	-	1
	Unable to attend clinic/theatre/session	1	-	-	1
Specialty	Medical Oncology	13	13	17	43
	General Surgery	6	20	16	42
	General Medicine	16	9	16	41
	Orthopaedic surgery	15	3	-	18
	Respiratory medicine	-	6	6	12
	Geriatric Medicine	2	-	8	10
	Palliative Medicine	-	3	2	5

Plastic Surgery	-	-	5	5
Haematology	2	2	-	4
Neonatal medicine	1	-	3	4
Neurosurgery	-	1	2	3
Obstetrics and gynaecology	2	-	1	3
Paediatrics	1	2	-	3
Anaesthetics	1	-	1	2
Paediatric Surgery	2	-	-	2
Renal medicine	1	1	-	2
Traumatic and Orthopaedic Surgery	-	1	1	2
Urology	-	-	2	2
Accident and emergency	-	1	-	1
Adult Intensive Care Unit	1	-	-	1
Cardiology	-	-	1	1
Cardio-vascular disease	-	-	1	1
Infectious diseases	-	-	1	1

Appendix 2**Summary of OUH Locum Filled Shifts: Jan/Feb/Mar.2022**

		Jan	Feb	Mar	Total
Locum Shifts	Total	886	362	108	1356
	Bank	880	340	77	1297
	Agency	6	22	31	59
Grade	Core	460	180	26	666
	Specialty	375	161	70	606
	Foundation	41	20	12	73
	Unassigned	5	1	-	6
	Medical Student	5	-	-	5
Specialty (top 20 specialties only)	Emergency Medicine	113	72	23	208
	Orthopaedic and Trauma Surgery	124	45	17	186
	Acute Medicine	146	25	-	171
	General Surgery	86	47	12	145
	Cardiothoracic Surgery	34	42	54	130
	Medicine	86	34	-	120
	Haematology	30	15	2	47
	Obstetrics and Gynaecology	24	19	-	43
	Palliative Medicine	26	13	-	39
	Paediatric Surgery	21	11	-	32
	Oncology	14	17	-	31
	Endocrinology and Diabetes	24	-	-	24
	Care of the Elderly	18	4	-	22
	Renal Medicine	8	12	-	20
	Gastroenterology	17	1	-	18
	Cardiothoracic Medicine	11	-	-	11
	Plastic Surgery	11	-	-	11
	Infectious Diseases	10	-	-	10
	Neurology	9	1	-	10
	Neurosurgery	10	-	-	10
Reason	Vacancy	468	210	94	772
	Covid-19	264	70	8	342
	Extra Cover	76	26	6	108

	Sick	35	34	-	69
	Self Isolation Covid -19 Auto Approved	16	7	-	23
	Exempt from On Calls	-	12	-	12
	Other	10	1	-	11
	Paternity Leave	8	-	-	8
	Compassionate/special leave	4	2	-	6
	Study Leave	4	-	-	4
	Pregnancy/Maternity Leave	1	-	-	1
Division	Medicine Rehabilitation and Cardiac	454	177	77	708
	Surgery, Women's and Oncology	217	128	14	359
	Neurosciences Orthopaedics Trauma Specialist	198	57	17	272
	Surgery Children's and Neonatal				
	Not Mapped	12	-	-	12
	Corporate	5	-	-	5
	Clinical Support Services	-	-	-	-