

Board of Directors (in Public) Item 2.6*

Subject: Guardian of Safe Working
Date of Meeting: Tuesday 26th November 2019
Prepared by: Fiona Ross, HR Business Partner
Presented by: Dr Raphael Perry, Medical Director
Purpose of Report: To Note

BAF Ref	Impact on BAF
4.1	Trust compliant with exception reporting. No change to risk rating. Potential financial risk and risk of losing junior posts if not compliant

1. Executive Summary

This is the 19/20 Q2 report on safe working hours following introduction of the 2016 contract for junior doctors.

At present LHCH has forty one trainees on the new contract currently on rotation at the Trust. All rotas are compliant with both the rules around the 2002 Junior Doctor Contract and also the 2016 Contract.

2. Background

The purpose of this report is to review the working hours of Doctors in training including exception reports, breaches of working hours, fines incurred and how these fines were levied.

Number of doctors / dentists in training (total):	53
Number of doctors / dentists in training on 2016 TCS (total):	41
Amount of time available in job plan for guardian to do the role: reviewed)	0 PAs (to be reviewed)
Admin support provided to the guardian (if any):	To be reviewed
Amount of job-planned time for educational supervisors:	0.25 PAs per trainee

3. Junior Doctor Contract 2016

a) Exception reports (with regard to working hours)

There has been 1 exception report submitted by a trainee on the new 2016 TCS since commencement of placement in August 2017 which related to a Trainee staying on shift for 1 hour after the scheduled finish time due to sickness with the on call Doctor who was due to handover. This was resolved within 24 hours with TOIL agreed by all parties.

Following confirmation from Daniel Mortimer, Chief Executive at NHS Employers that the remaining trainees currently on the old 2002 contract of employment should transfer to the 2016 terms and conditions no later than February 2020. It is anticipated that a significant number of these trainees will be entitled to pay protection under section 2 of that schedule until August 2025. This is currently being quantified.

Therefore, the Trust will have a reduced number of doctors on the 2002 contract of employment; those who are directly employed by the Trust. This will have implications for monitoring of rotas which is currently contractual however, a scoping exercise is being undertaken with HR and finance colleagues to review costing of moving Trust Doctors (also known as Locally Employed Doctors) onto the 2016 TCS.

b) Issues arising

There have been gaps on majority of junior doctor rotas for quarter 1, however these have improved significantly since the beginning of the 18/19 year:

First On Call	0 Gap (1:17) – includes one long term locum
Cardiology	0 Gaps (1:15)
Surgery Junior	2 Gaps (1:8) – two Gaps, includes two locums
Surgery Senior	2 Gaps (1:9) - one gap due to Resignation (June), one gap locum
Anaesthesia	0 Gaps (1:9) – there will be one gap from Nov 2019 due to long term sickness of trainee due to rotate

Trainee numbers/Trust Doctor Recruitment for August currently shows significant gaps in the Surgery Registrar rotas (6 out of 17). These are currently and will continue to be supported via agency use. Two Registrars have been successfully appointed and are due to commence on the junior rota from 07.10.19 but recruitment is still ongoing to address these gaps with review of job description and advertising to ensure the correct seniority of doctor is captured in the application stages.

A gap within Anaesthesia from November 2019 creates issues with cover over the Christmas period, currently being reviewed by divisional management.

c) Actions taken to resolve issues

Recruitment continue to advertise posts, a working group has been arranged to explore any alternative options in order to resolve these issues.

Gaps in rotas are currently being filled using agency Doctors to ensure no patient safety concerns arise and also that trainees on the 2016 TCS are not breaching any of the rules that incur automatic fines.

Director of Medical Education monitors junior and Trust Doctor rotas to ensure service provision is safe, reducing and increasing First On Call rota accordingly.

4. Junior Doctor Forum

LHCH continues to hold quarterly Junior Doctor forums which is a contractual requirement under the 2016 TCS. The most recent forum was held on 12th September 2019 and was chaired by Dr John Holemans in his capacity as Guardian of Safeworking. No concerns have been raised regarding working hours or educational opportunities but some helpful feedback was provided which led to some actions being taken away to improve conditions for juniors.

An extraordinary JDF has been arranged for 07.11.2019 to review the BMA Rest and Facilities Charter which will enable the Trust to apply for £60,000 of funding to improve rest and facilities. In order for this funding to be successful the Junior Doctor Forum must sign off suggested spending on this.

5. Revisions to the 2016 Junior Doctor Contract

Negotiations to introduce a number of improvements to the 2016 junior doctor contract in England have now concluded.

The deal we have agreed with NHS Employers and the Department of Health and Social Care brings a £90 million investment for junior doctors over the next four years.

- Increases to weekend and night shift (shifts ending after midnight and by 4am) pay
- £1,000 a year extra for all less than full time trainees
- A fifth nodal point on the pay scale at the level of ST6
- 'Section 2' transitional pay protection extended until 2025
- Improved GP trainee mileage and confirmed supernumerary status
- Improvements in rest and safety entitlements, with no more pay-to-stay when too tired to drive
- Contractualised NROC/LTFT rostering guidance
- Exception reporting for all ARCP/portfolio requirements
- Guaranteed annual pay uplift of 2 per cent each year for the next four years.

The contract negotiations revised the restrictions set in working time for Juniors on the contract, include:

- Junior doctors will be entitled to 46 hours rest after any night shift – All junior Doctor shifts at LHCH currently have 48 hours rest after any night shift
- Trainees can be rostered for a maximum of 7 shifts on 7 consecutive days – all junior doctor shifts at LHCH are for a maximum of 7 days
- Trusts will now be required to pay for a trainee's next journey to work, if their previous journey was paid for due to being too tired to drive home, and also provide free accommodation in certain circumstances where there are distance requirements for on-call doctors
- There are a number of new instances where a trainee can apply exception reporting and the scope for fines from guardians of safe working hours will be extended – no exceptions have been reported as yet

- Trusts are required to include local induction within work schedules – work schedules for LHCH trainees currently include local induction and EPR training.

6. Comments from Guardian of Safe Working

There was one exception report received during the period. A cardiology ST1 was not relieved of their on call bleep due to sickness and had to stay late. After 1 hour the surgical on call SHO took the bleep (in addition to their bleep). This is of concern as 1 person holding more than one bleep may not be safe and other Trusts have been criticised for this practice.

The continuing rota gaps are being monitored regularly with steps being taken to resolve any concerns.

7. Recommendations

The Board of Directors is asked to note the contents of the report and continued good progress with monitoring safe working hours.