

Procedure for Work Schedule Reviews and Exception Reporting for Doctors and Dentists in Training

CONTROLLED DOCUMENT

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1. Purpose

- 1.1. The purpose of this Procedure is to set out the process by which doctors and dentists in training¹ may request work schedule reviews and/or raise exception reports.
- 1.2. The purpose of a work schedule is to set out the intended learning outcomes of the doctor and dentist in training (mapped to the educational curriculum) and outline the scheduled duties and working arrangements of the doctor as they relate to each placement.
- 1.3. The purpose of exception reports is to ensure prompt resolution and/or remedial action to ensure that safe working hours for doctors and dentists in training are maintained.

2. Scope

- 2.1. This procedure applies to all medical and dental doctors in training working at UHB Foundation Trust ('The Trust'). This includes doctors working under an honorary contract but it does not apply to GP-VTS trainees employed by St Helens and Knowsley NHS Trust.
- 2.2. The procedure will also apply to the Director of Medical Education (DME); the Guardian of Safe Working and Educational/Clinical Supervisors² in respect of their specific roles.

3. Framework

- 3.1. The Trust will design and implement working arrangements for doctors and dentists in training that will meet clinical service requirements while delivering appropriate training and which are safe for patients and safe for doctors.
- 3.2. The Junior Doctors Monitoring Office design, manage and administer rota templates and maintain records of approved working arrangements for all departments within the Trust. They will also provide administrative support to the exception reporting processes.

4. Work Schedule

- 4.1. A work schedule will be sent to each doctor and dentist in training prior to their commencement in the post which will cover:-
 - The number and distribution of hours for which the doctor is contracted
 - The expected service commitments
 - The intended learning outcomes

Personalised training agreements will be made following commencement of the post between the doctor and educational/clinical supervisor

- 4.2. The work schedules will be reviewed from time to time to ensure they meet the requirements and demands of the post. In addition, a work schedule review may be requested in writing by a doctor, an educational/clinical supervisor, manager or Director of Medical Education/Guardian of Safe Working.

5. Work Schedule Review

- 5.1. If a work schedule review is requested, the educational/clinical supervisor will meet or correspond with the doctor who may take a colleague to accompany them as support if they so choose. A nominated Speciality lead may also undertake the role of the educational/clinical supervisor where considered most appropriate by specialty departments. The meeting should be undertaken ideally no later than 7 days after receipt of the review request unless there is an immediate risk to patient safety and this must be responded to within 7 days.

- 5.2. A review outcome may be:

- No change required
- Prospective changes to the schedule are required
- Compensation or time off in lieu is required
- Organisational changes are needed

The outcome will be communicated in writing and then will conclude stage 1.

- 5.3. If the doctor is dissatisfied with the outcome, s/he may request in writing a level 2 review within 14 days of the outcome of stage 1. The request must set out the areas of disagreement about the work schedule and the outcome sought.
- 5.4. A level 2 meeting will take place within 21 days where possible and will consist of the doctor, educational supervisor, a service representative and nominee of the Director of Medical Education (if training concerns) or Guardian of Safe Working (if safe working concerns). For an academic trainee this will also include the academic supervisor. The meeting is chaired by the DME/GSW as appropriate to the concerns raised (or nominees) and the doctor may take a colleague to accompany them as support if they so choose.

- 5.5. The outcome may be:-

- Level 1 outcome is upheld
- Compensation or time off in lieu is required
- Prospective changes to the work schedule are required
- Organisational changes are needed

5.6. If the doctor remains dissatisfied, a final stage work review must be requested in writing to the Director of Human Resources within 14 days of the outcome of stage 2. This will be a formal hearing under the Trust's Grievance Procedure and will conclude all aspects of the work review process and grievance process.

5.7. The request for a final stage work review must clearly state the grounds for the review and include any supplementary documentation that the employee plans to present.

5.8. The final stage hearing should where possible, take place within 20 working days of the request and the panel considering the review request will consist of:

- Medical Director; Deputy Medical Director or Associate Medical Director – Chair of the meeting
- Divisional Director
- Director of Medical Education (or nominee)
- HR Manager

If the final stage request is appealing a decision taken by the GSW, the hearing panel will include a representative from the BMA or other recognised trade union nominated from outside the Trust and provided within one month of the request. This may delay the meeting from 20 working days.

5.9. The review outcome may be: -

- Level 2 outcome is upheld
- Compensation or time off in lieu is required
- Prospective changes to the work schedule are required
- Organisational changes

The outcome will be communicated in writing and the decision is final.

5.10. All work schedule reviews relating to safe working hours will be part of the quarterly reports from the GSW.

6. Exception Reporting

6.1. Where a doctor feels that their working arrangements in practice varies significantly and/or regularly from the agreed work schedule, they

should raise their concerns in writing to their Clinical Supervisor and copied to the Clinical Service Lead. . Primarily the variations will be:-

- Differences in the total hours of work (including rest breaks)
 - Differences in the pattern of hours worked
 - Differences in the educational opportunities and support available to the doctor
 - Differences in the support available to the doctor during service commitments
- 6.2. It is the responsibility of the doctor to obtain authorisation for any work over as set out in the Standard Operating Procedure for the Authorisation of Additional Hours for Doctors in Training (Working Over contracted rota hours).
- 6.3. The department should be allowed the opportunity to address issues as they arise and resolve concerns. If a doctor feels their concerns have not been addressed locally, an exception report may be appropriate to highlight the issues. An exception report can be lodged on the electronic Exception Reporting System (ERS) which the Trust will make available to all DiT. An exception report should be submitted electronically to the educational/clinical supervisor or delegated lead for the specialty within 14 days (or 7 days where a financial penalty is claimed). The exception report should include:
- (i) The name, speciality and grade of the doctor involved
 - (ii) The identity of the educational/clinical supervisor
 - (iii) The dates and times of exceptions
 - (iv) The nature of the variance from the work schedule
 - (v) An outline of the steps taken to resolve matters before escalation

The department may elect to nominate a consultant as the speciality lead to receive and deal with all exception reports and queries relating to rota and working issues. The report will also be copied to the DME where it relates to training issues or the GSW where it relates to safe working practices or both if a mixture.

- 6.4. If no local steps have been taken the educational supervisor or delegated lead for the specialty may return the form to the doctor in order for the Clinical Service lead/nominated consultant and department to review the issues.
- 6.5. Where the educational/clinical supervisor (or nominated lead) receives an exception report which includes the steps taken to resolve matters locally, s/he will discuss with the doctor what action is necessary to address the reported concern. The agreed outcome will be set out in an electronic response to the doctor through the ERS and will be copied to the DME or GSW as appropriate.

6.6. The DME will review the outcome of the exception report to identify if further improvements to the doctors training experience are required. The GSW will review the outcome of the exception report to identify if further improvements to the doctors working hours are required to ensure the limits and working hours outlined in the TCS are being met.

7. Safety Breaches Incurring a Financial Penalty

7.1. The GSW will review all exception reports copied to them regarding safe working arrangements to ascertain if there is a validated breach of:-

- The 48 hour average working week (across the reference period identified for the placement)
- The maximum 72 hour limit in 7 days
- The minimum 11 hours rest requirement between shifts has been reduced to fewer than 8 hours

7.2. The breach must be part of the doctor's standard and or expected working requirements. It does not apply to locum work or unauthorised additional work.

7.3. All additional work required of the doctor by the department for service needs must be authorised though the Standard Operating Procedure for the Authorisation of Additional Hours for Doctors in Training (Working Over contracted rota hours) Appendix A.

7.4. Where the GSW accepts that a documented and validated breach of the requirements in 7.1 above has occurred they will:-

- (i) Authorise payment to the doctor for the additional hours of work outside of their rota hours which will be paid at the penalty rates set out in table 1 below (TCS schedule 2 page 68).
- (ii) Consider if a fine should be levied on the department at the rates set out in table 1 below (TCS schedule 2 page 68).

Table 1

	Total hourly value (£)	Hourly penalty rate (£), paid to the doctor	Hourly penalty rate (£), paid to the Guardian of Safe Working Hours
Basic Rate	The total value of the fine is four times the <u>basic</u> hourly rate	x1.5 of the <u>basic</u> hourly locum rate	The total hourly value minus the hourly penalty rate paid to the doctor

Enhanced (night) rate	The total value of the fine is four times the <u>enhanced</u> hourly rate	x1.5 of the <u>enhanced</u> hourly locum rate	The total hourly value minus the hourly penalty rate paid to the doctor
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- 7.5. Where the GSW accepts that breaks have been missed on at least 25% of occasions across a 4 week reference period and the concern is documented and validated as correct, a fine may be levied on the department at twice the hourly rate for the time in which the break was not taken. No additional remunerations payable to the doctor as the break is already paid. In addition, a work schedule review should take place to address the issues and ensure no other breaches occur.
- 7.6. Fines made by the GSW will be collected on a specific budgeted code falling under the Education Directorate. The money raised will be authorised for spend by the GSW to benefit the education training and working environment of doctors in training. A small forum of junior doctor representatives will be formed for consultation on the re-allocation of the funds raised through fines. The establishment of the forum will be undertaken following consultation with the LNC.
- 7.7. The details of fines made by the GSW will be brought to the attention of the Trust Board in the Guardians' annual report and will also be published in the Trust's annual financial report.

8. Immediate Safety Concerns

- 8.1. It is the responsibility of all Trust employees to rectify any areas of concern posing an immediate and substantial risk to the safety of patients and doctors.
- 8.2. Where a doctor in training becomes aware of an immediate and substantive risk relating to their working arrangements they must raise their concerns immediately with the clinician responsible for the service (CSL or Divisional Director) or the Consultant on-call. The doctor should both follow the Trust's incident reporting system and complete an exception report within 24 hours.
- 8.3. The clinician receiving the report (CSL, DD or consultant on-call) may:
- Grant the doctor immediate time off from their rota schedule
 - Ensure immediate support is provided to the doctor
 - Review working arrangements
 - Notify the education supervisor/GSW of their actions within 24 hours

The educational supervisor should review the work schedule to ascertain if remedial or ongoing action is required.

9. Review of Procedure

The procedure will be initially reviewed after 6 months and thereafter not more than 3 years after the date of approval.

10. References

Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016

Good Medical Practice

11. Associated Policy and Procedural Documentation

Exception Report Flowchart – Appendix B and C

Policy for the reporting and management of incidents including serious incidents requiring investigation

Standard Operating Procedure for the Authorisation of Additional Hours for Doctors in Training (Working Over contracted rota hours)

Notes:

¹ The term ‘doctors’ will be used to reference doctors and dentists in approved postgraduate training programme under the auspices of Health Education England (HEE).

² The role of educational supervisors may rest with clinical supervisors for certain grades/specialities; some education supervisors may not be located at the Trust.

Standard Operating Procedure for the Authorisation of Additional Hours for Doctors in Training through Exception Reporting (Working Over contracted rota hours)

Individual Doctors in training have a professional responsibility to ensure their total hours of work, including work for any employer, complies with the contractual and regulatory limits.

As an employer, The University Hospitals Birmingham NHSFT has a responsibility to protect the health, safety and welfare of its employees and to safeguard others, mainly patients and members of the public, who may be exposed to risks from the way work is carried out. Safe working is paramount and the purpose of the template rotas and Work Schedules issued at the time of appointment is to clearly set out the contracted hours of work which comply with the safe limits agreed nationally.

Working beyond defined shift lengths should only be undertaken when all other alternatives have been exhausted and any additional work undertaken due to service demands or mitigating circumstances is subject to Consultant approval authorisation through the Exception Reporting Procedure. Non-authorized time will not be considered working time.

The European Working Time Directive combined with the 2016 contract for Doctors in Training set standards on safe working, including maximum working hours and rest periods (Terms & Conditions of Service for NHS Doctors & Dentists in Training (England) 2016: Schedule 03) the key aspects are:

Weekly average hours (over reference period)	Maximum of 48
Weekly average hours if opting out of WTR (over reference period)	Maximum of 56
Absolute limit on hours	Maximum 72 in ANY consecutive seven calendar days
Maximum shift length	13 hours in ANY 24
Minimum break between duties	11 hours

'Template' Rota Work Pattern:

All junior doctors will be provided with a template rota by the Trust as part of their Work Schedule., A named roster timetable will be issued subsequently by the Clinical Divisions. The template rota shows the hours of work over a cycle of weeks,

usually equivalent to the number of participants on the rota. The rotas' carry the approval of and are registered with, the Trust Junior Doctors Monitoring Office. Below is an example:

Example Template Rota (issued with Work Schedule):

2016 Contract	Result	Target	EWTD	Result	Target
Average hours (with allowance for leave)	47:00	48:00	AWWT	47:27	48:00
Average hours	46:45	48:00	Weekly rest	PASS	24:00
Max weekly hours	71:30	72:00	Daily rest	PASS	11:00
Max consecutive days	PASS	8			
Max consecutive long shifts	PASS	5	Notes:		
Max consecutive night shifts	PASS	4	Please see next page for pay information.		
Max consecutive late shifts	PASS	4	Participants may start at ANY point on template rota - to be confirmed by Divisional medical staffing officer.		
Max consecutive on-call shifts in midweek	PASS	1	Please raise any potential rest breaches when you are rotating from one specialty/trust to another with your Divisional Medical Staffing Officer.		
Min period off (after 5 long shifts)	PASS	48:00	You will note that template rota duties apply at all times - do not assume that you will be off duty on a Bank Holiday - you must check with your Divisional Medical Staffing Officer and the roster they issue.		
Min period off (after 3 consecutive nights)	PASS	46:00			
Min period off (after 4 consecutive nights)	PASS	46:00			
Min period off (after consecutive days)	PASS	48:00			
Max weekend frequency	PASS	2			
Max on-call frequency	PASS	3 in 7 days			
Max shift length after on-call	PASS	10:00			
Max shift length	PASS	13:00			
Max on-call length	PASS	24:00			
Min period off (after 4 consecutive lates)	PASS	48:00			

Week	Mon	Tue	Wed	Thu	Fri	Sat	Sun
1	8:00-17:30	8:00-17:30	8:00-20:30	8:00-20:30			
2	8:00-20:30	8:00-20:30	8:00-17:30		8:00-20:30	8:00-20:30	8:00-20:30
3		8:00-17:30	8:00-17:30	8:00-17:30	8:00-17:30		
4	8:00-17:30	8:00-17:30	8:00-17:30	8:00-17:30	8:00-17:30		
5	20:00-24:00	08:00-8:30	08:00-8:30	08:00-8:30	08:00-8:30		
6	8:00-17:30	8:00-17:30	8:00-17:30		20:00-24:00	20:00-8:30	08:00-8:30
7	20:00-8:30			8:00-17:30	8:00-17:30		
8	8:00-17:30	8:00-17:30	8:00-17:30	8:00-17:30	8:00-17:30		

Duty	Name	Type	Start	Finish	Days	Duration
A	MWD	Shift	8:00	17:00	1	9:00
B	Late	Shift	8:00	20:30	1	12:30
C	Night	Shift	20:00	8:30	2	12:30

A Doctor is required to adhere to the hours of work outlined on the template rota and the Division/Department to facilitate this.

Any workovers beyond the duties scheduled on the template rota are subject to **authorisation** at the time (or within 24 hours if this was not possible) by either the on call Consultant or the individual's supervising Consultant and must be documented with full reasons for the workover on an Exception Report

1.1 Prior to contacting the Consultant regarding any workovers, doctors, will be expected to have explored reasonable alternatives, such as handing outstanding tasks over to other appropriate clinical/medical staff.

1.2 Reasons for workovers raised through exception reporting will be made available to the specialties to facilitate improved working arrangements where appropriate.

Where additional time has been approved, time off in lieu (TOIL) will normally be given, however the decision for this will reside with the supervising Consultant in receipt of the exception report..

REVIEW PROCESS

The Standard Operating Procedure will be reviewed from time to time and every 3 years in accordance with the standard Trust requirements.



