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Meeting:	Brighton and Sussex University Hospitals NHS Trust Board of Directors
Date:	23rd February 2017
Board Sponsor:	Medical Director
Paper Author:	Guardian of Safe Working Hours
Subject:	Safer Working Hours (Medical)

Executive summary

This report is the first quarterly report to the Board regarding the systems in the new Junior Doctor contract for monitoring safe working practices.

In the initial phase of new contract implementation there have been difficulties with both collection of data relating to Junior Doctors' hours and mechanisms for departments to cope with the issues which arise due to new ways of working. This report relates to October to December 2016 and discussions and plans in hand at the time of writing the report will be included in the next quarterly report.

The Board is asked to note the importance of improving both physical systems of data collection and cultural changes to implement the contract successfully.

Action required by the Board of Directors

The Board is asked to discuss and note the report

Links to corporate Objectives	The report supports the corporate objectives: <i>excellent outcomes; great experience; empowered skilled staff;</i>
Identified risks and risk management actions	A number of issues have been identified in the implementation phase which are identified in the report, together with the plans to resolve them
Resource implications	Resources required to provide administrative support
Report history	This is the first quarterly report to the Board
Appendices	None

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Report to the Board of Directors, 23rd February 2017

Quarterly report on safe working hours: doctors and dentists in training

Executive summary

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Introduction

The systems in the new Junior Doctor contract for monitoring safe working practices are very new and will require Trust-wide cultural and administrative changes. Although at BSUH many individuals approached have been supportive this change will require time. The capacity of BSUH to cope with organizational change whilst under great pressure is a concern.

The Guardian's quarterly report, as required by the Junior Doctor's contract, is intended to provide the Board with an evidence based report on the working hours and practices of Junior Doctors within the Trust, confirming safe working practices and highlighting areas of concern.

As stated within this initial report the data available is very limited and does not at this point allow assessment of safe working practices. This report suggests areas in which it will be possible to improve data collection and therefore support development of monitoring working practices of Junior Doctors. This report is written with the information available relating to Oct-Dec 2016, and information available is fast changing.

High level data

Number of doctors / dentists in training (total):	574
Number of doctors / dentists in training on 2016 TCS (total):	95 (12/16)
Amount of time available in job plan for guardian to do the role:	2 PAs / 8 hours per week
Admin support provided to the guardian (if any):	Not yet agreed
Amount of job-planned time for educational supervisors:	0.25 PAs
per trainee for first trainee and then 0.125PA for each trainee thereafter.	

DATA FOR OCTOBER – DECEMBER 2016

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a) Exception reports (with regard to working hours)for doctors on 2016 TCS

There are, as yet relatively few junior doctors on the new contract. It is clear that not all consultant supervisors understand their role and some are having some difficulties with access to the reporting site. The web site (DRS) is not providing information in an easily assimilated manner and there was some delay in the dash board intended to be provided for Guardians becoming available.

Exception reports by department				
Specialty	No. exceptions carried over from last report	No. exceptions raised	No. exceptions closed	No. exceptions outstanding
O & G	0	7	7	0
Acute Medicine	0	4	4	0
General Surgery	0	2	2	0
Total	0	13	13	0

Exception reports by grade				
Specialty	No. exceptions carried over from last report	No. exceptions raised	No. exceptions closed	No. exceptions outstanding
F1	0	6	6	0
SpR	0	7	7	0
Total	0	13	13	0

Exception reports by rota
N/A at this time

Exception reports (response time)					
	Addressed within 48 hours	Addressed within 7 days	Addressed in longer than 7 days	Addressed by Guardian	Still open
F1		2	2	2	0
SpRs	1		2	4	0
Total	1	2	4	6	0

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Hours monitoring/diary card exercises for Doctors on 2002 TCS

Hours monitoring exercises (for doctors on 2002 TCS only)						
Specialty	Grade	Rostered hours	Monitored hours	Banding	Response rate %	WTR compliant (Y/N)
Cardiology	ST3+	47.28	48.59	1B	37%	no
Genitourinary Medicine	ST3+	47.39	50	1A	100	no
Microbiology/ID	ST3+	47.25	not enough data available	1A	0	N/A
Neurology	ST3+	47.33	not enough data available	1A	25	Yes
Ophthalmology	ST3+	46.48	45.02	1A	29	yes
Radiology	ST1	40	40	Nil	67	yes
Radiology	ST2+	46.46	46.29	1A	90	Yes
General Surgery	CT2/F2	47.33	47.55	1A	60	no
General Surgery	F1	47.15	50.24	1A	83	no
Paediatric Surgery	F2/CT	47.29	46.04	1A	66	Yes
Paediatric Surgery	ST3+	42.2	43.12	1A	34	Yes
Paediatrics	F2/CT	45.29	45.53	1A	33	yes
Paediatrics	ST4+	46.2	46.2	1A	12	yes
Urology	CT2	40	not enough data available	Nil	0	N/A
Urology	F2	40	40	nil	100	yes
Urology	ST3+	45.3	45.3	1a	25	YES
Vascular	CT	47.56	48.17	1A	43	no

b) Work schedule reviews

At this early stage in contract implementation no formal work schedule reviews would be expected, and none have occurred.

c) Locum bookings

It is recommended that the Guardian's report includes data related to locum bookings of Junior Doctors, subdivided by rota, grade, and whether bank, agency or internal locum.

At this time Trust systems are not able to provide this information and the newly appointed locum manager will be working with the Guardian and IT support to develop a mechanism for reporting this information.

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d) Vacancies

Vacancies by month					
Specialty	Grade	10-16	11-16	12-16	Total gaps (average)
A&E	ST3+	0	1	1	0.667
Anaesthetics	ST3+	5	5	5	5
ITU	ST3+	2	2	2	2
Foundation year 2	F2	0	0	1	0.33
General Surgery	ST3+	1	1	1	1
Haematology	ST3+	0	0	1	0.33
Histopathology	ST3+	3	3	3	3
ITU	CMT (CT1/2)	0	0	1	0.33
Neurology	CMT (CT1/2)	0	1	1	0.667
Neonates	ST4+	2	2	2	2
T&O	ST3+	1	1	1	1
Renal	ST3+	1	1	1	1
Vascular	ST3+	1	1	1	1

e) Fines

At this early stage in contract implementation it is not unexpected that no fines have as yet been applied.

Qualitative information

Junior Doctors' Forum

The Junior Doctor Forum (JDF) draft terms of reference and constitution have been prepared and the initial meeting scheduled for January.

Elected LNC Junior Doctor Representatives have been included. In addition a mechanism for specific elected representatives for this forum will be established. At the inaugural meeting the representative structure will be agreed. All Junior Doctors who wish to attend the JDF will be welcomed, space permitting.

Junior Doctors' Concerns

It is anticipated that once the JDF is in action issues important to Junior Doctors will be raised through this forum.

Meanwhile there has been little formal feedback from Junior Staff. The issues concerning them so far have been:

- Understanding by clinical and educational supervisors of the new contract and preparation to deal with exception reports.

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- Allocated leave. It has been clarified with a rota co-ordinator that under the terms of the new contract allocated leave is not a contractual provision except in exceptional circumstances.
- Due to pay rates and the nature of rota changes it has been clarified that for some junior doctors pay protection means that some juniors have a significantly higher salary than others working the same rota. This is in the nature of the contract and systems implemented nationally.

Junior Doctors

There have been few exception reports to date. The nature of the exception reports received would suggest that they are likely to recur. Even though small additional hours may result in TOIL or relatively small payments there is difficulty in getting exception reports closed with supervisors. This may result in a lack of reliability in the data and the Trust will need to ensure that closing exception reports is simple and delays do not disaffect Junior Doctors. Many Junior Doctors seem unaware that an inability to get a natural break during a shift should be reported.

Feedback from junior doctors is that the exception reporting system is, in some departments, meeting with resistance from consultant supervisors and managers.

There have been no educational exception reports. This is concerning as triangulation with F1 attendance sheets for education sessions for the first 3 weeks of the new contract shows that approximately 20% of potential sessions are missed for what seem to be clinical reasons (i.e. excluding leave/post nights rest). Even if there are other unexplained reasons it is clear that in addition to the two clinical reasons specified for absence in the first week the majority of these absences might have been expected to result in an educational ER (potentially 50 ERs in number). Without education exception reports the Trust loses the opportunity to manage the education offered to trainees and therefore to pro-actively deal with any issues which may be uncovered during inspections.

Educational and Clinical Supervisors, clinical managers

Some consultants and consultant managers appear to misunderstand the national imposition of this contract and that the requirements contained within it are not optional.

Educational and Clinical Supervisors have, even with the low number of exception reports thus far generated, struggled with closing exception reports in a timely manner. There is limited understanding of the process and consultants find it hard to access the web site- possibly in part due to access only being easy on certain web browsers as provided by the Trust. Further educational meetings are scheduled which, together with practical experience should improve this.

This may result in a lack of enthusiasm for supporting exception reporting and therefore a lack of accurate data on working patterns of Junior Doctors.

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Administrative Support

Though it is proposed that the Guardian will receive administrative support this has not yet been organized. In this context it is not possible to optimize co-ordination of education and collation of information for the quarterly and annual reports. It will be of value to have a named administrator as an additional point of access to the system for educational and other queries. Though individual personnel in HR and medical education departments have been very supportive they do not have the ability within their current roles to release the time required to serve the additional needs of the Guardian and exception reporting system.

Payment

It is too soon to confirm whether additional hours payments have been made to the junior doctors concerned. There have been delays in initial payments, but the system is new and this may be resolved. It should be monitored.

Reporting systems

The computer system DRS used for exception reporting is not yet complete. There is no 'phone app' reporting function for Junior Doctors which is due to be designed. The timelines of exception reports are not entirely clear on the screen. The collation and dash board for the Guardian became active on 18th January.

Linkage to the payroll is not yet confirmed to be functional.

Records of locum and additional work performed by juniors have not previously been required in the current form and Trust systems and familiarity with the Guardian's requirements will take time to develop. Currently the Trust cannot provide all the data required.

Issues arising

- **Unreliability of data available to date**
- **Lack of support for exception reporting from consultant medical staff resulting in low numbers of exception reports**
- **Trust systems unable to provide key data**
- **Lack of named administrative support for the Guardian role**

As we enter the new contract it is clear that new systems of information gathering are being required and this is in hand. Cultural changes and awareness by the senior medical staff of the changes required are as yet in early stages, but increasing numbers of senior clinicians are proactively requesting education and information about the new contract.

This report relates to October-December 2016, but as it was written in early January it is impossible to be unaware of the fast paced changing situation as the reality of the new contract becomes apparent in this new year. There will be increased education and discussions with individual departments to support their understanding of the new contract. It is anticipated that the next quarterly report will

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be made at a time when a more balanced overview of the situation and issues in the Trust will be possible.

Actions taken to resolve issues

Educational sessions are timetabled for supervisors and it is anticipated that there will be support from senior Trust managers for a communication with all consultant staff.

Ongoing discussions with clinical managers to assist their understanding of the contract will continue.

In addition there will be liaison with the medical education department to encourage junior doctors to engage with the educational exception reporting system.

Work continues with the medical education department and HR to find a solution to the issue of administrative support for the Guardian role.

Summary

At this time it is not possible to use the Exception Reporting and Guardian system to make a statement about the safety of working hours across the organization.

The key action required of the Trust is a more complete use of the exception reporting system.

Plans are in hand that, with Trust support, will enable a more complete assessment of working hours in the next Guardian report to the Trust Board.

Questions for consideration

- Exception reporting is lower than anticipated. The nature of the exceptions and their comments would suggest that this is both due to the need for cultural change and due to lack of expertise and familiarity with the system by both consultants and trainees. The data is insufficient at this time to support any comment on the safety or otherwise of current working practices. Departments should be encouraged to engage with the exception reporting process.
- Further education of consultants and junior doctors is planned.
- Data on additional work performed by junior doctors is hard to establish as this is a new requirement of the systems in place in the Trust. Further guidance for directorates and departments could assist in improving the quality of data.
- The DRS reporting system is not as yet fully functional and this Trust, together with others, should continue to press for an adequate dashboard including grades of doctors and timelines of reports.

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- The lack of administrative support for the Guardian function, though planned to be resolved, is a hindrance to collating full data for the regular reports from the Guardian.

Guardian of Safe Working Hours February 2017

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Appendix 1 : Working draft TOR for Junior Doctors' Forum

Name: Junior Doctors' Forum, BSUH

Purpose

The junior doctors' forum is established to fulfill the contractual requirements of the 2016 contract to advise the Guardian of Safe Working Hours and DME in BSUH, who will oversee the processes in the new contract designed to protect junior doctors from being overworked, and to ensure appropriate education and training and other contractual rights are upheld. . In addition the junior doctors' forum will advise the Guardian on and scrutinise the distribution of any moneys received from institution of financial penalties as described in the junior doctors' contract (2016).

The Junior Doctors Forum will also advise on issues which may relate to juniors employed on the 2002 contract.

The Guardian and Director of Medical Education in BSUH will enable a nomination/election process to establish a Junior Doctors Forum (or fora) to advise them and make appropriate arrangements to enable the elected representatives time off for their activities & duties in connection with their role.

Election onto the forum will be for the period of rotation and replacements must be sought for any retirement from the committee.

The forum will not discriminate on the grounds of gender, race, colour, ethnic or national origin, sexuality, disability, religious or political belief, marital status or age and will alert the Guardian and DME to any potential areas of discrimination they identify in implementation of the contract.

The junior doctors' forum relates to trainees working at BSUH, and to other institutions as formally agreed by the Guardian and the BSUH Trust.

Aims and Objectives of the JDF

The JDF will contribute to locally negotiated and determined arrangements as set out in the 2016 Terms and Conditions of Service proposed in the following areas:

- Exception reporting and work schedule reviews as set out in Paragraph 2, Schedule 5, including the effectiveness of the operation of the process of exception reporting as set out in paragraphs 4, 5 and 6 and whether any improvements are needed
- Paragraph 27, Schedule 3 agreements regarding scheduling of consecutive on-call rotas for a minimum of 7 days where it is safe and acceptable to do so
- Arrangements for locum processes as set out in Paragraph 44, Schedule 3
- Work scheduling and educational reviews as set out in Paragraph 18, Schedule 4

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- Arrangements for the disbursement of fines as set out in Paragraph 18, Schedule 5
- Quarterly reporting on the safe working as set out in Paragraph 35, Schedule 5
- Review of rota gaps on shifts as set out in Paragraph 11a, Schedule 6
- Scrutiny of the distribution of income as set out in Paragraph 13, Schedule 6
- Leave arrangements as set out in Paragraph 10, Schedule 7, including swapping of leave and leave taken at the end of placements

In addition the JDF;

- Will take part in the scrutiny of the distribution of income drawn from fines.
- Will collaborate with the Guardian of safe working hours to devise the allocation of funds. These funds must not be used to supplement the facilities, IT provision and other resources that are already defined by HEE as fundamental requirements for doctors in training and which should be provided by the employer as standard.
- Will performance Manage the Guardian. Where there are concerns regarding the performance of the Guardian, or the JDF should raise those concerns with the Trust Medical Director or the relevant director with responsibility for managing the Guardian. These concerns can be escalated to the senior independent director on the Board of Directors where they are not properly addressed or resolved
- Provides a forum for ideas and suggestions to be discussed and put forwards for consideration by the appropriate committee
- Provides a forum for the Trust to engage with and harness the energy and vision of junior doctors in developing and improving its services, working conditions, education and training.

Membership

Chair: Guardian of safe working hours

DME or nominated deputy

Chair LNC (or another member of the LNC if there is a conflict of interest)

Junior doctor representatives on the LNC

Head of Medical HR or nominated deputy

Trust Rota co-ordinator or equivalent

Flexible Trainees' Champion

BMA IRO

Elected junior doctor members as follows:

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- junior representatives to ensure there is a designated junior member to represent various sub groups or Directorates within the junior doctor population covered by the forum, including but not limited to:
 - Less than full time trainees
 - Academic trainees
 - Public health trainees
 - GP trainees
 - Dental trainees
 - Medical students

whilst ensuring that the numbers are kept to a manageable size.

We are currently investigating mechanisms of voting and the potential number of representatives required. Ideally these will all be elected, but if the system is too complex the possibility of adding nominated representatives to the elected representatives in order to ensure a wide distribution will be considered.

Reporting

The JDF will provide verbal reports to Board of Governors, the Postgraduate Training Committee (PGTC), Medical Staff Committee (GMSC), and Local Negotiating Committee (LNC) at their respective meetings.

Meetings

The Guardian will convene meetings of the Forum on a regular basis, not less than 3 monthly. Members of the forum are entitled to time from their usual duties in order to attend these meetings.

Each meeting will have a private session for Junior Doctors, the Guardian and the IRO, either before or after the main business.

All junior doctors, while they are working at BSUH or other organisations as described in the aims and objectives are entitled to request in advance to attend a meeting.

A quorum for a meeting will be the Guardian, or DME or LNC Chair if nominated to Chair the meeting in the guardian's absence together with 4* junior doctors. If the quorum is not satisfied a non-quorate meeting may be held, but recommendations and suggestions made by the JDF must be ratified at the next quorate JDF.

Quorum to be decided in the light of the number of representatives

The agenda will include:

- Minutes of last meeting
- Report/update from the Guardian of safe working, to include volume of exception reports, fines levied, funds accrued
- Feedback from Junior Doctor representatives, including specialty specific-issues
- Disbursement of fines

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- Local issues relating to banding for juniors on the 2002 contract.
- Any other business
- Date of next meeting

In addition all junior doctors, whether attending the meeting or not, may ask for an issue to be discussed by the forum.

Minutes of the forum will be recorded and distributed to the members. These will be available on request. If matters, in the opinion of the Guardian, are discussed which are exceptionally sensitive or may breach an individual's confidentiality, the Guardian will keep separate records.

The Guardian will consult the Forum on matters to be included in the Guardian's formal 3 monthly report to the board and will share this report with the forum.

Administrative Support

The Trust will provide administrative support to the forum, in creating and sharing agenda, minutes, arranging meetings, creating reports and other activities as required.

Review

Whilst the JDF establishes itself, this Constitution will be reviewed on an annual basis initially and then every 3 years thereafter.

Monitoring

The LNC Chair will monitor compliance with this Constitution.

Date/...../.....

Guardian of Safe Working Hours

Signed

Director of Medical education.....

Signed.....

LNC Chair.....

Signed