Junior doctors’ 2016 contract

Guardian of Safe Working Hours webinar

8 September 2016
## Key dates in the next six months

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>By 3 Oct 2016</td>
<td>Exception reporting systems launched</td>
</tr>
<tr>
<td>5 October 2016</td>
<td>First trainees start on the new contract (O&amp;G ST3+)</td>
</tr>
<tr>
<td></td>
<td>Guardian to attend induction and introduce themselves and their role</td>
</tr>
<tr>
<td>12 Oct 2016</td>
<td>First weekly review of the exception reporting dashboard</td>
</tr>
<tr>
<td>By end Nov 2016</td>
<td>First meeting of the junior doctor forum</td>
</tr>
<tr>
<td>Dec 2016</td>
<td>First F1 (and F2) doctors move onto new contract</td>
</tr>
<tr>
<td>Jan 2017</td>
<td>First quarterly report to the board</td>
</tr>
<tr>
<td>March 2017</td>
<td>Second NHS Employers Guardian Conference</td>
</tr>
<tr>
<td>Feb-Apr 2017</td>
<td>Transition to new TCS for psychiatry, pathology, paediatrics and</td>
</tr>
<tr>
<td></td>
<td>surgical doctors taking up new appointments, and F2 and GP trainees</td>
</tr>
<tr>
<td></td>
<td>taking up new appointments on those rotas</td>
</tr>
</tbody>
</table>
Why do we need a guardian?

• Current twice-yearly monitoring mechanism mean it is not a good measure of rota safety
• Penalty bandings mean that health and safety issues are unhelpfully conflated with pay, preventing issues from being resolved
• BMA, DH and NHS Employers all agreed a new system was needed – and a system of work scheduling and exception reporting was agreed in 2013/14 negotiations
• Junior doctors concerned that employers would not act on exception reports
• It was agreed that there should be an independent person responsible for championing safe working hours
The guardian will:

- Champion safe working hours
- Attend induction to explain their role to the doctors
- Oversee safety related exception reports and monitor compliance
- Escalate issues for action where not addressed locally
- Require work schedule reviews to be undertaken where necessary
- Intervene to mitigate safety risks
- Intervene where issues are not being resolved satisfactorily
- Distribute monies received as a result of fines for safety breaches
- Provide assurance on safe working and compliance with TCS
The guardian will not:

• Design rotas
• Manage individual work schedules
• Act as the educational champion
• Review every aspect of doctors’ working patterns
• Intervene in every exception
• Agree working patterns or schedules with individual doctors
• Answer questions which fall outside their remit - though should know where to direct the doctor for further help (e.g. medical staffing or the BMA)
Distinction between roles

• The guardian is not responsible for education and training, this remains the role of the DME.

• The guardian is not responsible for the line management of junior doctors (unless this was already part of their separate role as a clinical/educational supervisor).

• The guardian role does not replace the role of educational supervisors.

• The guardian of safe working hours should not be confused with other guardian roles such as the Caldicott guardian or Freedom to Speak up guardian.
Exception reports

• Doctors should report exceptions where day-to-day work varies from that set out in the work schedule.
• They must be submitted within
  – 14 days (standard)
  – 7 days if payment is requested
  – 24 hours where there are immediate safety concerns
• Any issues should at first be addressed by the clinical or educational supervisor, to establish whether this is truly exceptional or whether it requires a work schedule review.
• The guardian of safe working hours will be able to view all exception reports.
Exception reporting systems

Electronic exception reporting systems will be made available through Skills for Health and Allocate. These systems will be live by 3 October 2016, but effort is being made to make them available earlier.

Where organisations are not using this software, a local system for submitting exceptions will need to be put in place.
## Training dates from system providers

<table>
<thead>
<tr>
<th>Skills for Health</th>
<th>Allocate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday 19 September, London, 10.00-13.00 &amp; 14.00 – 17.00</td>
<td>User group events taken place in Taunton and London to date</td>
</tr>
<tr>
<td>Wednesday 21 September, Liverpool, 10.00-13.00 &amp; 14.00-17.00</td>
<td>Another user group on Tuesday 13 September, Manchester</td>
</tr>
<tr>
<td>Friday 23 September, Liverpool, 10.00-13.00 &amp; 14.00-17.00</td>
<td>Information on more detailed training for the system to be published soon, likely to be online Webex sessions</td>
</tr>
<tr>
<td>Monday 26 September, London, 10.00-13.00 &amp; 14.00-17.00</td>
<td></td>
</tr>
<tr>
<td>Wednesday 28 September, Newcastle, 10.00-13.00 &amp; 14.00-17.00</td>
<td></td>
</tr>
</tbody>
</table>

Employers should coordinate locally who will attend the events and should contact their software provider directly to book places.
The exception report dashboard

This will show:

• New exceptions
• Open exceptions
• Open exceptions which have passed a deadline and require guardian intervention
• Closed exceptions

The guardian will intervene where deadlines have been missed, but can review any exception report at any time.
Application of fines

• When the outcome of the exception reports has been agreed by the doctor and the educational supervisor, the exception report will be reviewed by the guardian to check whether the below provisions have been breached.

• Fines will be levied when working hours breach one or more of the following provisions:
  a) The 48 hour average weekly working limit
  b) Contractual limit on maximum of 72 hours worked within any consecutive 7-day period
  c) Minimum 11-hour rest has been reduced to less than 8 hours
  d) Where meal breaks are missed on more than 25 per cent of occasions.

In some cases, the guardian may need to review a pattern of exceptions to identify whether a fine is to be levied.
Application of fines

• Fines will be levied against the department where the doctor works, at 4x the applicable rate of pay for the time of the breach.
• The doctor will receive 1.5 times the applicable locum rate, and the guardian will retain the remainder for future disbursement.
Disbursement of fines

- The distribution of monies collected from fines will be determined with the help of the junior doctor forum.
- It must not be spent on standard fundamental requirements for doctors in training, e.g. IT provision and study leave.
- It should be used to benefit the education, training and working environment of doctors in training.
- Details of the fines levied and their disbursement will be published in the organisation’s annual report.
The junior doctor forum

• The guardian will convene the junior doctors’ forum on a regular basis to advise on safe working hours issues.
• The group will include relevant junior doctor representatives from the LNC (or equivalent), as well as the chair of the LNC, and relevant educational and HR colleagues as agreed with the group.
• Where your role covers small specialties or those with specific employment requirements, representatives of those groups should also be included.
• The group will scrutinise the distribution of fines.
Quarterly reporting

• The Board and LNC will receive a quarterly report from the guardian, which will include:
  – Aggregated data on exception reports (including outcomes), broken down by categories such as specialty, department and grade
  – Details of fines levied
  – Data on rota gaps
  – Data on locum usage
  – Other data deemed to be relevant by the guardian
  – A qualitative narrative highlighting areas of good practice and / or persistent concern
Data for quarterly reporting

Data will be gathered from sources such as:

- Exception reporting system
- Vacancy reports
- Locum usage report
- Qualitative feedback from the junior doctor forum
Other reporting processes

• The guardian may identify issues which cannot be resolved at a local level, and should inform the Board of such issues as they arise.

• The Board will produce a consolidated annual report on rota gaps and the plan for improvement, and is responsible for providing this to external national bodies.
The employer’s responsibility

1. Ensure sufficient time allocation (e.g. sufficient PAs in the job plan if a consultant/SAS doctor)
2. Ensure appropriate admin support to manage flows of exception reports and other information
3. Agree reporting cycle, liaison with LNC etc
4. Establish junior doctor forum to advise the guardian

The guardian’s first report should inform the board whether the above actions have been implemented appropriately.
Questions
Contact us: GuardianSWH@nhsemployers.org
Website: www.nhsemployers.org

Webpage for Guardians of Safe Working Hours:
http://www.nhsemployers.org/your-workforce/need-to-know/junior-doctors-2016-contract/information-for-guardians

@NHSemployers

Facebook.com/NHSEmployers