Safe working hours rules webinar
13 September 2016

Hosted by:

Associate Director of Medical Workforce, Gareth Jones
Medical and Dental Pay Manager, Ellie Pattinson
Update on current position

Implementation
Expected to go ahead according to the implementation timeline

Industrial action
Due to take place 8am-5pm on:
5, 6 and 7 October (weekend covered) and then 10–11 October
14–18 November
5–9 December

We will be giving further advice about industrial action over the coming weeks.
TCS Implementation Timeline

• **3 August 2016**  New contract effective date.

• **October 2016**  Transition to the new terms and conditions of service for:
  - ST3+ in obstetrics and gynaecology training programmes.

• **November – December 2016**  Transition to the new terms and conditions of service for:
  - F1s (taking up next appointment)
  - F2 (taking up next appointment and sharing a rota with F1s)

• **February – April 2017**  All grades taking up next appointments in:
  - Psychiatry
  - Pathology
  - Paediatrics
  - Surgical trainees (under JCST)
  - Any F2 and GP trainees at ST1/2 who share a rota with trainees above in this category.

• **August – October 2017**
  • All remaining existing trainees
  • All new entrants
The old contract

- New Deal: supplementary pay as a lever for reductions in working hours
- In 1999, many doctors were still working more than 56 hours per week, with hours over 40 paid at less than the standard rate
- Penalty pay rates to try and force down working hours
- Most significant reductions in hours came not from New Deal but from the impact of working time legislation 2004-2009
- New Deal bandings and penalty rates now apply in a very different working context than the one they were designed for
• New Deal banding came into force December 2000 and the last ‘escalator’ increase to banding payments was in December 2002.
• Hardly any shift in the percentage of Band 2 rotas between 2001 and 2003.
• First phase of EWTD for doctors in training August 2004, fully implemented in August 2009.
• 2009 legal deadline (and significant increase in doctor numbers) brought reduction in band 2 rotas (below 48 hours)
The new contract

• The new contract aims to keep pay and safety issues as separate as possible.
• This is to prevent safe working concerns from turning into disputes about pay.
• The new contract also encourages doctors to report hours breaches as soon as possible
• These should be addressed ASAP by the educational/clinical supervisor and may lead to work schedule review
• Fines will apply for some safety breaches
## Safe working hours: hours and shifts

<table>
<thead>
<tr>
<th>Max 48 hour average working week</th>
<th><strong>A Guardian fine will apply</strong> if this rule is breached</th>
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</thead>
<tbody>
<tr>
<td><strong>Max 72 hours work in any 7 consecutive days</strong></td>
<td><strong>A Guardian fine will apply</strong> if this rule is breached</td>
</tr>
<tr>
<td>Max 13 hour shift length</td>
<td><strong>A Guardian fine will apply</strong> if this rule is breached</td>
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<tr>
<td>Max 5 consecutive long shifts, at least 48 hours rest following the fifth shift</td>
<td>Long shift - a shift rostered to last longer than 10 hours</td>
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<tr>
<td>Max 4 consecutive long daytime/evening shifts, at least 48 hours rest following the fourth shift</td>
<td>Long daytime/evening shift - a long shift rostered to finish after 23.00</td>
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<tr>
<td>Max 4 consecutive “night shifts”. At least 46 hours rest following the third or fourth such shift</td>
<td>Rule applies where at least 3 hours of work fall in the period 23.00 to 06.00. Rest must be given at the conclusion of the final shift, which could be the third or fourth</td>
</tr>
<tr>
<td>Max 8 consecutive shifts (except on low intensity on-call rotas), at least 48 hours rest following the final shift</td>
<td>Low intensity on-call - duty on a Saturday &amp; Sunday where 3 hours or less of work takes place on each day, and no more than 3 episodes of work take place on each day. Up to 12 shifts can be worked consecutively in this scenario</td>
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<tr>
<td>Safe working hours: weekends, rest &amp; breaks</td>
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<tr>
<td><strong>Max frequency of 1 in 2 weekends can be worked</strong></td>
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<tr>
<td>Weekend work - any shifts/on-call duty periods where any work falls between 00.01 Saturday and 23.59 Sunday</td>
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</table>
| **Max frequency of 1 in 2 weekends can be worked**  
  (special exception for nodal point 2) |
| For one placement at F2 (typically the emergency medicine placement), the definition of weekend work above will not apply, and instead the definition will be any shift rostered to start between 00.01 Saturday and 23.59 on a Sunday |
| **Normally at least 11 hours continuous rest between rostered shifts (separate provisions for on-call duty periods below). Breaches of 11 hours’ rest in a 24-hour period subject to time off in lieu (TOIL)** |
| This is as per the Working Time Regulations. TCS specify TOIL must be given within 24 hours of the breach |
| **In exceptional circumstances where rest is reduced to fewer than 8 hours, work should be no more than five hours the following day** |
| Penalty rate payable for the additional hours worked that shortened the rest period, Guardian fine will apply |
| **30 minute break for 5 hours work, a second 30 minute break for more than 9 hours** |
| A Guardian fine will apply if breaks are missed on at least 25% of occasions across a four week reference period |
## Safe working hours: on call

<table>
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<tr>
<th>Condition</th>
<th>Requirement</th>
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<tbody>
<tr>
<td>No consecutive on-call periods apart from Saturday and Sunday. No more than 3 on-call periods in any period of 7 consecutive days</td>
<td>Up to a maximum of 7 consecutive on-call periods can be agreed locally where safe to do so</td>
</tr>
<tr>
<td>The day after an on-call period must not be rostered to last longer than 10 hours</td>
<td>This could be after one on-call period or after up to 7 consecutive on-call periods</td>
</tr>
<tr>
<td>While on-call, expected rest is 8 hours per 24 hour period, of which at least 5 hours should be continuous between 22.00 and 07.00</td>
<td>If it is expected this will not be met, the day after must not exceed five hours. Doctor must inform employer where rest requirements not met, TOIL must be taken within 24 hours</td>
</tr>
<tr>
<td>No doctor should be rostered on-call to cover the same shift as a doctor on the same rota is covering by working a shift</td>
<td>Unless there is a clearly defined clinical reason agreed by the clinical director and the working pattern is agreed by both the Guardian and the DME</td>
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</tbody>
</table>
Exception reporting

• 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
Exception reporting

• 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.
Fines

• When the outcome of the exception reports has been agreed by the doctor and the educational supervisor, they 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.
Resources available

- [Terms and conditions](#) and [Pay Circular](#)
- [Implementation guidance for employers](#)
- [Factsheet on rota rules](#)
- [Guardian of safe working hours resources](#)
- [Regularly updated FAQs](#)

More resources are available, and will continue to be added to our [website](#).
A selection of FAQs

• Available on our website and regularly updated:

  – Q. Will doctors be able to swap shifts?
  – Q. How do we deal with mixed economy rotas?
  – Q. Do we still need to monitor?
  – Q. What is the rota sign off process?
Questions
Thank you for attending the webinar today

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Website: www.nhsemployers.org

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