### Agenda item number
7.3

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Confidential

Suitable for public access

#### Strategic objective(s):

- Best outcomes
- Excellent experience
- Skilled & motivated teams
- Top productivity

#### ASPH value(s)

- Patients first
- Personal responsibility
- Passion for excellence
- Pride in our team

### Executive summary

The new contract for junior doctors in training outlines the requirement for Trusts to appoint a Guardian of Safe Working Hours to oversee robust work schedule review process and address concerns relating to hours worked and access to training opportunities.

This appointment of the Guardian of Safe Working is an important element of the implementation of the new contract for junior doctors in training.

This paper outlines the role of the Guardian and the appointment to the role within the Trust along with a recommendation for the future reporting processes for the Guardian’s reports.

### Recommendation:

The Trust Board is asked to approve the reporting arrangements outlined within the paper.

### Specific issues checklist:

- Quality and safety issues
- Patient impact issues?
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<td>Risk issues? Link to relevant BAF item number if so</td>
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**Author name/role**
Phil Spivey, Deputy Director of HR

**Presented by**
Louise McKenzie, Director of Workforce & OD

**Date**
18th January 2017

**Committee action**
Approve
GUARDIAN OF SAFE WORKING HOURS

1. Background and scope

The new contract for junior doctors in training outlines the requirement for Trusts to appoint a Guardian of Safe Working Hours to oversee robust work schedule review process and address concerns relating to hours worked and access to training opportunities.

This appointment of the Guardian of Safe Working is an important element of the implementation of the new contract for junior doctors in training. This paper outlines the role of the Guardian and the appointment to the role within the Trust.

2. Safe working and the Role of the Guardian

The Guardian role is designed to reassure junior doctors and employers that rotas and working conditions are safe for doctors and patients. The Guardian will oversee the work schedule review process and will seek to address concerns relating to hours worked and access to training opportunities.

A system of exception reporting has been outlined in the 2016 contract which will ensure that departures from planned working hours, working pattern or access to planned training opportunities are recorded.

The Guardian is required to convene a junior doctors’ forum at regular intervals to provide advice on the role and to scrutinise the disbursement of penalty fines.

The guardian will be subject to a performance management framework that includes feedback from doctors in training, and doctors will be able to raise any concerns they might have about the performance of guardian through the medical director.

The guardian's oversight of safe working hours will also include monitoring associated equality and diversity issues.

The attached slide pack has been produced by NHS Employers to give an overview of the role (Appendix 1).

3. Trust appointment and actions to date

Dr Paul Murray, Consultant Respiratory Physician, has been appointed as the Guardian of Safe Working Hours within the Trust following an appointment process which involved junior doctor representatives.

A local escalation process has been implemented in relation to exception reporting which is outlined at Appendices 2-4.

Dr Murray has established the junior doctor’s forum and the first meetings have taken place.
4. **Assurance process**

One of the terms of the new contract is that the Guardian is required to provide a quarterly report on the safety of doctors’ working hours, including details of rota gaps, to the Trust Board. A consolidated annual report on rota gaps and the plan for improvement to reduce these gaps shall be included in a statement in the Trust's Quality Account, which must be signed off by the Chief Executive.

The annual report should also be made available to the Local Negotiating Committee (LNC), Care Quality Commission (CQC), Health Education England (HEE), General Medical Council (GMC) and the General Dental Council (GDC).

5. **Recommendation**

The Workforce and OD Committee discussed the reporting arrangements and assurance process at the November meeting. It has recommended that the quarterly reports are submitted to the WOD Committee, as a formal sub-committee of the Trust Board, and reported to the Board within the minutes of the meeting.

The Trust Board is asked to approve this recommendation.

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Phil Spivey  
**Deputy Director of HR**
2016 Terms and conditions of service: Guardians of safe working hours

Name of presenter – title
Date
Safe working hours

- Current twice-yearly monitoring mechanism under the old contract was not a good measure of rota safety.
- Penalty bandings meant that health and safety issues were unhelpfully conflated with pay, creating pay disputes and preventing issues from being resolved.
- The BMA, Department and Health 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.
Safe working hours

• The new contract ended the hours monitoring system and replaced it with work schedules and exception reports.
• Work schedules set out the work that doctors in training are expected to do, and the training they can expect to receive.
• When a doctor’s work exceeds that set out in the work schedule, they can raise an exception report highlighting the risk to safe working hours.
• The employer then responds to that report by adjusting the doctor’s hours to ensure that they remain safe.
Why do we need a guardian?

• Junior doctors concerned that employers would not act on exception reports and that managers would not be interested in what they showed.

• It was agreed that there should be an independent person responsible for championing safe working hours.
The role of the guardian

- The role of the guardian of safe working hours is to reassure junior doctors and employers that rotas and working hours are safe for doctors and patients.

- The guardian is the champion of safe working hours and a backstop if normal processes haven’t resolved an issue.

- The guardian is copied in to all exception reports so they can fulfil their oversight role and escalate things as necessary, but is not expected to be involved in every issue.
The role of the guardian

• The guardian oversees the work schedule review process and seeks to address concerns relating to hours worked and access to training opportunities.

• The guardian supports safe care for patients through protection and prevention measures to stop doctors working excessive hours.

• The guardian has the power to levy financial penalties against departments where safe working hours are breached.
The role of the guardian

• The guardian will provide regular and timely reports to the board on the safety of doctors' working hours.

• The guardian will report annually on improvement plans to resolve rota gaps.

• This information will be incorporated into the trust’s quality accounts and made available to the regulators.
The guardian will:

• Champion safe working hours.

• 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.
The guardian will:

• 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.
Distinction between roles

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

• 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.
Quarterly reporting

The Board 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 against departments with safety issues.
• Data on rota gaps / staff vacancies.
• 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.
Quarterly reporting

The guardian will use the quarterly report to:

• Give assurance to the board that doctors are rostered and working safe hours.
• Identify to the board any areas where there are current difficulties maintaining safe working hours.
• Outline to the board any plans already in place to address these
• Highlight to the board any areas of persistent concern which may required a wider, system solution.
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 guardian will produce a consolidated annual report on rota gaps and the plan for improvement, and is responsible for providing this to external national bodies.
Trainee considers it necessary to work outside of work schedule to ensure patient safety.

Trainee contacts on-call/supervising consultant for authorisation before or during period of extended working, or afterwards if this is not possible.

- Authorisation is refused, trainee is not required to remain at work.
- Authorisation is given, trainee raises an exception report.
  - Within 7 days if payment is requested
  - 14 days if not
- If on-call/supervising consultant unable to be contacted, refer to Escalation flow chart.
  - Trainee will raise an exception report and record that the on-call/supervising consultant was not contactable.
Director On-Call Escalation Flow Chart

On-call/supervising consultant is uncontactable, contact Director on-call via switchboard

Director on-call will attempt to contact the on-call/supervising consultant or another clinician if the on-call/supervising consultant is uncontactable

If on-call/supervising consultant is uncontactable, Director on-call will raise a datix incident report.
Responding to Exception Reports Flow Chart

Educational/Clinical Supervisor receives email that an exception report has been submitted by trainee (within 7 days if payment is requested, 14 if not)

Within 7 days

Educational/Clinical Supervisor reviews report and discusses reasons with trainee. (ES/CS may also liaise with supervising/on-call consultant to gather further information)

Workplace requirement for additional work

Educational/Clinical Supervisor contacts Service Manager to agree TOIL or payment as appropriate

Clear trainee choice to stay late, start early or miss break

Educational Supervisor/Clinical Supervisor does not agree exception report with no further action.

Educational/Clinical Supervisor agrees exception report on DRS indicating TOIL or payment as appropriate

Is issue a “one-off” or part of a pattern?

Pattern

One-off

Service Manager sends email to Head of Medical Workforce authorising payment of additional hours or agrees with trainee when TOIL will be taken

Level 1 review of work schedule

Closed

Role of ES/CS

Role of Service Manager