

# Report to the Meeting of the

# Oxford Health NHS Foundation Trust

**BOD 110/2019**

(Agenda item: 13)

# Board of Directors

**4th December 2019**

**Report from the Guardian of Safe Working**

**For: Information**

**Executive Summary**

*This is my first report to the board as I have just taken up this post. I pay tribute to my colleague Dr Phil Davison who has done an excellent job and has been very helpful in inducting me. I apologise in advance if I have omitted or included any information that has not been in Dr Davison’s previous reports.*

*In this report, I have presented the Exception Report data in the way he has previously done, as I expect the Directors will find this familiar. There remains a low level of exception reporting still. However, a further set of new rules came into force in August and trainees, the JDF and myself are all trying to understand these. We will need to watch carefully over the next quarter, to see whether things change significantly and whether trainees are generally cognisant of the new rules.*

*I note that the general culture in our Trust encourages exception reporting, which is greatly to our credit, but we have to be alert that there will always be pressures on doctors to do work, either for clinical reasons or those associated with KPIs in the various departments they work across.*

**Governance Route/Escalation Process**

*After presenting this report to our board, I send the report to our clinical directors, to the Director of Medical Education, our LNC chair and the Head of School.*

*I report directly to the board on a quarterly basis and will endeavour to attend in person on a 6-monthly basis.*

**Statutory or Regulatory responsibilities**

*I do not have statutory or regulatory responsibilities, but as I have indicated above, it is expected that I report directly to the board on a regular basis.*

**Recommendation**

*The Board is asked to note this report.*

**Author and Title: Dr Danny Allen Consultant Psychiatrist and Guardian of Safe Working.**

1. *A risk assessment has been undertaken around the legal issues that this report presents and there are no issues that need to be referred to the Trust Solicitor*
2. ***Strategic Objectives*** *– this report relates to or provides assurance and evidence against the following Strategic Objective(s) of the Trust:*

*1) Driving Quality Improvement*

*(Goals: patients will be safe from harm; patients will achieve the clinical outcomes they want; and patients and carers will have an excellent experience)*

*2) Delivering Operational Excellence*

*(Goals: our services will be effective and efficient; information will be translated into knowledge; and our planned surplus will be delivered)*

*4) Developing Our Business through Collaboration and Partnerships*

*(Goals: we will work in collaborative partnerships; we will maintain and grow our services where we add value; and we will have strong relationship with our stakeholders)*

*5) Developing Leadership, People and Culture*

*(Goals: staff satisfaction will be in the top 20% of Trusts nationally; our staff and teams will be high-performing; and we will recruit and retain an excellent workforce)*

**SITUATION**

*For background information I have added appendices that my predecessor has included in previous reports (see below).*

**BACKGROUND**

There has been new guidance since my last report. It took effect from August 2019 and builds upon the safeguards in the original regulations. Full details of the new contract agreements can be found at <https://www.bma.org.uk/collective-voice/influence/key-negotiations/terms-and-conditions/junior-doctor-contract-negotiations/agreed-new-contract-deal-for-junior-doctors-in-england>. I also attach a summary from the BMA.

**This report contains the following:**

1. **Exception report summary**
2. **Exception report data (the data is analysed by the JDF chair and myself to ensure accuracy). The data is from the period July 5th to November 19th.**
3. **Analysis of exception report data.**
4. **Looking forward**
5. **Appendix. This explains the role of the Guardian of Safe Working.**

**1 Exception report summary 5/7/19-19/11/19**

|  |  |  |
| --- | --- | --- |
| Total no. of reports | 47 |  |
| Excluded reports | 2 | Bucks FY1 report regarding allocation of tasks during days on medicine at Stoke Mandeville.  1 duplicate report |
| No. of reports included in analysis | 45 |  |
| No. of exceptions contained within included reports | 48 |  |
| Foundation year 1 | 11 |  |
| CT1-3/FY2/GPVTS | 16 |  |
| GA/OA/For/LD ST4-6 | 19 | +1 report to clarify including probable 1 exception |
| CAMHS ST 4-6 | 0 |  |
| Bucks ST4-6 | 1 |  |

**2 Exception report data**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | Total exceptions | **FY1** | **CT/** | **ST4-6** | **CAMHS** | **Comments** |
|  |  |  | **GPVTS/** |  |  |  |
|  |  |  | **FY2** |  |  |  |
| Late finish after normal day | 23 | 11 | 6 | 5  (+ 1 Bucks) | 0 | NOTE. Primarily from acute wards in Oxford. |
|  |  |  |  |  |  |  |
| Insufficient breaks during shift | 1 | 0 | 1 | 0 | 0 | Busy wards shift. |
| Less than minimum rest time achieved between rostered full-shifts | 0 | 0 | 0 | N/A | 0 |  |
| Early start | 1 | 0 | 0 | 1 | 0 |  |
| Late finish after an OOH shift | 7 | 0 | 7 | N/A | N/A |  |
| Insufficient rest during non-res on-call:<5hrs consecutive rest within 22:00-07:00 or not able to work max 5hrs the next working day. | 3 | N/A | N/A | 3 | 0 | 2 Warneford, 1 L&B |
| Insufficient rest during non-residential on-call:<8hrs minimum rest in 24hrs | 1 | N/A | N/A | 1 | 0 | L&B – trainee up for 24hrs. |
| Late finish after non-residential on call | 0 | N/A | N/A | 0 | 0 |  |
| No. of hrs worked on-call >prospective on work schedule | 9 | N/A | N/A | 9 | 0 | 4 Warneford, 5 L&B |
| Not able to work max 5hr day after L&B shift | 0 | N/A | N/A | 0 | 0 | Unclear, probably 1, but requires clarification |
| Missed educational opportunity | 1 | 0 | 1 | 0 | 0 | Not able to get to ECT training due to nights (eventually came in whilst on nights for it) |

**3 Analysis of data**

During the period analysed it is clear that staying beyond hours on the Oxford wards is the major issue being reported. It is hard to believe that all exceptions are being reported and audits of both core training and higher training activity out of hours (spring 2019) confirm this. Informal discussion with trainee doctors and discussion at the Junior Doctors Forum (JDF) suggests that some doctors take the view that they are ‘slower than average’ and therefore, the fact that they are staying late does not merit reporting.

Additionally, some trainees remain unsure when or how to report exceptions, despite extensive attempts by the JDF committee to provide education and support around this. We will continue to work on this area.

It is also difficult to know, without further investigation, whether life on the wards in Oxford is harder than in Aylesbury. Certainly, this is where most reports are coming from. Despite encouragement, though, it is evident that not every junior doctor who works outside the rules reports it. It is important that people do, so that the Trust Board gets an accurate picture of what is happening.

As I get into my role, I hope to develop opportunities to speak to more trainee doctors, in order to ascertain what is happening, especially in Buckinghamshire.

**4 Looking forward**

The JDF is currently working on the following areas:

* More effective ways of providing education and support to all trainees in safe working & the exception system.
* Consideration of options for accommodation for non-residential on-call doctors after out of hours work.
* Implementation of the BMA Fatigue and Facilities Charter, which the trust signed in 2018.
* Challenges for less than full time trainees, especially relating to the flexibility of essential educational activities.

Dr Matthew Gee (ST6 Psychotherapy) will be stepping down from his role as Co-Chair of the JDF in Spring 2020 upon his completion of training. The committee are highly appreciative of the dedication of Matthew over the past 3 years to the JDF. Given the change of both GOSW and Co-Chair within 12 months, especially with another new contract in midst of implementation, Dr Rebecca McKnight (Chair of JDF since 2015, ST5 General Psychiatry) intends to continue with her role for the time being to ensure continuity. We will advertise for a new Co-Chair in early 2019.

1. **Appendix: Role of the Guardian of Safe Working**
2. **Introduction**

The Guardian of Safe Working (GoSW) was implemented following junior doctor contract negotiations in 2016. The GoSW must have no management role within the organisation. It is expected that the GoSW serves for 3 years. I started in September 2019.

1. **The Role**

The GoSW, having no part in the management structure of the Trust, is able to act independently in response to concerns raised by trainee doctors. The work of the GoSW is subject to external scrutiny by the Care Quality Commission (CQC) and by Health Education England (HEE). The aim is to ensure the safety of doctors and therefore of patients.

The GoSW reports directly to the Board and has two broad aims:

* To promote a culture where trainee doctors feel comfortable about raising concerns with respect to their working hours and do not fear adverse repercussions if they raise these, either in person by talking to the GoSW, or by generating an exception report (see appendix for definitions).
* To report to the Board and Directorates, on the numbers and patterns of exception reports that are being generated by trainee doctors.

1. **Features of the new Junior Doctors’ Contract**
2. **Exception reports**:

Whenever the work schedule (see below for definition of work schedule) does not reflect the work that was agreed (e.g. the junior doctor is working too many hours on call), or when the safety aspects of the contract are breached, the trainee is expected to raise an ‘exception report’ using a computerised system (DRS4). The aim of this system is to ensure that a work schedule remains fit for purpose. The exception report provides real-time information and identifies problems as they arise. It benefits both employers and training doctors, as whenever safe working is compromised (e.g. a trainee works too many hours) or an educational opportunity is missed, these problems can be raised and addressed early on in a placement, resulting in safer working and a better educational experience. The role of the GoSWH is to oversee exception reporting and compliance with the 2016 contract, but only with respect to working hours. The Director of Medical Education oversees missed training opportunities.

1. **Work schedule:**

This is similar to a consultant’s job plan. Supervising consultants (called Clinical or Educational Supervisors) and employers will be required to devise work schedules for each post. This will be a generic schedule setting out the hours of work, the work pattern, the service commitments and the training opportunities available during the post.

During their first meeting with a Clinical or Educational Supervisor, a trainee doctor and their supervisor will identify the experiences the trainee could gain from that post, and that they require in order to achieve certain desired competencies during their training. The work schedule will be agreed with their supervisor. The work schedule can be altered at any time – within contract rules - to more accurately reflect the job, should it become apparent this is necessary. E.g. Changing work hours from 9am-5pm to 8.30-4.30pm.

1. **The Junior Doctors’ Forum (JDF):**

This advises the GoSW of issues relating to safe working and will also advise the Director of Medical Education of concerns about missed educational opportunities for trainees.

1. **Sanctions for the Trust:**

If certain contractual rules are broken with respect to trainee doctors’ working hours the GoSW is to **fine the Trust**. This money is to be distributed for the benefit of all junior doctors and the GoSW will be guided by the JDF as to how they might want to spend the money.

Trainee doctors are expected to take **time off in lieu (TOIL)** (preferred as we are trying to limit their working hours) for the occasions they work extra and unexpected hours, or to receive **extra payment**.

1. **Additional GoSW Powers**:

*The GoSW can:*

* Require a review of a work schedule to be undertaken where necessary
* Intervene where issues are not being resolved satisfactorily.
* Give assurance to the board that trainee doctors are rostered safely and are working safe hours.
* Identify for the board any areas where there are current difficulties maintaining safe working hours.
* Outline for the board any plans already in place to address these difficulties.
* Highlight for the board any areas of persistent concern which may require a wider, system solution.

1. **The national and regional picture:**

National and Regional GoSW meetings are held. In the Thames Valley we have a quarterly GoSW meeting.

We have a reasonably appropriate level of exception reports, based on the number of trainees working in our Trust, as compared to our colleagues in Oxford University Hospitals Trust, Buckinghamshire, Milton Keynes and Berkshire.

There is general agreement that the DRS 4 reporting system is less than perfect as it does not adequately reflect the contractual changes. Medical staffing have been actively investigating other reporting systems.

Ours is the one of the only Junior Doctor Forums in the region that is chaired and actively managed by a trainee doctor.

Danny Allen

Guardian of Safe Working

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