

## Cover Sheet

Public Trust Board Meeting: Wednesday 08 November 2023

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**Title:** Guardian of Safe Working Hours Quarterly Report Quarter 2: July – September 2023

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**Status:** For Information

**History:** Quarterly update

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**Board Lead:** Chief Medical Officer

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**Confidential:** No

**Key Purpose:** Assurance

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## Executive Summary

1. **Exception Reports:** This quarter, access delays in exception reporting accounts posed challenges. A total of 325 exception reports were submitted. Concerns regarding understaffing and extended duties were highlighted, affecting service reliability. Regrettably, the available data currently hinders our ability to conduct a comprehensive audit of these issues.
2. **Locum Bookings:** This quarter, a total of 4907 locum shifts were utilised, with Orthopaedic and Trauma Surgery utilising the most. By cross-referencing this data with other information in the report, the Trust could enhance its strategies for more effective management of temporary medical staffing.
3. **Work Schedule Reviews:** Discrepancies between work schedules and duty rosters prompted a review, with compensatory time off granted to affected doctors. The need to align work schedules and rosters has been emphasised, requiring a collaborative process.
4. **Vacancies / Rota Gaps:** There is no centralised system for collecting data on junior doctor vacancies. Enhanced rota gap management and contingency planning are essential for safer, organised work conditions.
5. **Fines:** Reviewing potential breaches of working hours can be demanding due to software limitations. Nonetheless, 26 reports indicated potential breaches, primarily resulting from extended shifts to meet patient needs. Notably, new starters in August, reported using time off work to complete mandated induction tasks, which inadvertently led to breaches of safe working hours.
6. **Junior Doctors Forum:** The OUH Junior Doctors Forum plays a crucial role in representing junior doctors' interests and facilitating communication. Challenges with communication to new junior doctors have delayed recent meetings. Feedback highlighted induction issues and the need for improvements.
7. **Safe Working Hours Assurance:** Assurance reports rely on the absence of system-wide concerns and satisfactory responses at an individual or service level. Efforts are underway to establish a purposeful framework for assuring safe working hours reporting, emphasising safety in doctors' working hours.

## Recommendations:

The Trust Board is asked to note this report.

## Guardian of Safe Working Hours Quarterly Report Quarter 2: July – September 2023

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### 1. Purpose

1.1. This Quarterly Report on Safe Working Hours for doctors in training (Q2: Jul-Sep 2023) is presented to the Board with the aim of providing context and assurance around safe working hours for OUH Doctors in Training (also referred to as 'Trainees' and 'Junior Doctors').

### 2. Report Limitations

2.1. It's important to recognise the limitations that challenge our capacity to offer dependable assurance. These encompass our dependency on sporadic and voluntary feedback, compounded by the absence of dedicated corporate administrative support, resulting in limited readily accessible information on this issue.

2.2. The absence of reports of non-compliance does not necessarily indicate compliance, and the guardian suggests interpreting the report with caution due to these limitations.

### 3. Background

3.1. The Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016 state:

- The guardian reports to the Board of the employer (and host organisation, if appropriate), directly or through a committee of the Board, as follows:
- The Board must receive a Guardian of Safe Working Report no less than once per quarter. This report shall also be provided to the JLNC, or equivalent. It will include data on all rota gaps on all shifts.
- 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 Trust Chief Executive. This report shall also be provided to the JLNC, or equivalent.
- Where the guardian has escalated a serious issue in line with Terms and Conditions paragraph 10(d) and the issue remains unresolved, the guardian must submit an exceptional report to the next meeting of the Board.
- The Board is responsible for providing annual reports to external bodies as defined in these terms and conditions, including Health Education England (Local office), Care Quality Commission, General Medical Council and General Dental Council.

3.2. There may be circumstances where the guardian identifies that certain posts have issues that cannot be remedied locally and require a system-wide solution. Where such issues are identified, the guardian shall inform the Board. The Board will raise the system-wide issue

with partner organisations (e.g., Health Education England, NHS England, NHS Improvement) to find a solution.

## 4. Q2 Report

### 1.1. High level data – Table 1

Number of OUH employees (approx. total)	12,000
Number of OUH doctors (approx. total)	1,800
Number of doctors in training - Deanery posts	949
Locally employed 'junior' doctors	450
Number of junior doctor rosters (approx.)	200
Foundation year 1	96
Foundation year 2	130
Core Trainees	27 (16 surgical)
IMTs	76
Dental	5
General Practice	35
Specialty Trainees	580
Job planned time for Guardian	8 hours / week
Job planned time for Deputy Guardian	4 hours / week
Dedicated admin support for the Guardian Role, the JDF and issues arising related to safe working hours (Requested 1 WTE)	0 hours / week

### Exception reports (with regard to working hours and education) – Appendix 1

- 4.1. During this quarter, there were delays in providing new starters with access to their exception reporting accounts. While access issues have been resolved, a significant concern emerged as numerous accounts were registered with incorrect supervisor and specialty details. This inaccuracy in the data has consequently undermined its reliability. The setup of exception reporting accounts relies on accurate information from multiple sources, and addressing this challenge is crucial to ensure the effectiveness of the system.
- 4.2. In this quarter, 325 exception reports were submitted, 6 remain open (quarterly average = 153 / range 47– 392).
- 4.3. Two 'immediate concerns' arising in the surgical emergency unit were raised in Q2; the threshold to submit such concerns is subjective.
- 4.4. These two immediate concerns, submitted by one doctor described the challenges of understaffing due to sickness and extended duties beyond their usual role, which included inadequate staffing and leaving a colleague to manage the remaining workload. Despite escalating this matter to the clinician responsible for the shifts, no additional cover was found.
- 4.5. There have been 22 educational exception reports submitted this quarter, with 16 already closed. Of the 16 closed reports, 13 noted; "Unable to attend scheduled teaching/training", all these reports cited clinical workload as the reason for non-attendance.

- 4.6. At OUH, many junior doctor rosters include academic trainees from the University. The absence of a streamlined system for providing exception reporting accounts to academic trainees raises concerns that we might not be receiving valuable feedback from this group of doctors. This, in turn, affects our ability to collectively assess exception reports.
- 4.7. The lack of contextual financial and working hours data poses a significant obstacle to conducting a comprehensive audit cycle. Consequently, it hampers our ability to fully assess the broader service impact and exercise appropriate oversight.

## **Locum Bookings / Locum work carried out by Junior Doctors – Appendix 2**

- 4.8. For this quarter, a total of 4907 locum shifts were filled by locums (quarterly average = 3201 / range 1356 – 4400), with 73% of shifts filled by bank locums and 27% by agency locums. Orthopaedic and Trauma Surgery remained the most frequently used specialty, accounting for 16% of all locum shifts. 70% of all locum shifts were filled due to vacancies.
- 4.9. Cross-referencing this data with other data in this report could bolster the Trust's strategies for managing temporary medical staffing more effectively. Furthermore, if financial information on locum costs in junior doctor service rosters is accessible, it could aid in aligning service budgets with rostering needs.

## **Work Schedule Reviews**

- 4.10. During this quarter, the guardian initiated a review of work schedules after junior doctors in Oral and Maxillofacial Surgery raised concerns about discrepancies between their work schedules and duty rosters. These differences led to extra hours of work, potentially breaching safe working hours regulations. Following a swift review by one of the Foundation Training Programme Directors, it was determined that affected doctors would receive compensatory time off, and both the work schedules and duty rosters would be reviewed to ensure compliance with each other and safe working hour rules.
- 4.11. A widespread assumption that work schedules and duty rosters align creates challenges in identifying and consistently capturing discrepancies through exception reporting software. This issue typically impacts all doctors sharing a roster and has substantial consequences for the entire stakeholder group. It underscores the need for collaborative efforts between central and divisional HR teams to address this matter.

## **Vacancies / Rota Gaps**

- 4.12. In line with the contract requirements, this report should cover all rota gaps across different shifts. Currently, there is no centralised system for collecting data on junior doctor vacancies, with individual managers overseeing junior doctor rotas primarily responsible for this task. The absence of a Trust-wide mechanism to monitor vacancy data limits our ability to quantify the issue, assess the reliability of informal feedback, and take necessary actions to support the Trust's objective of reducing reliance on temporary staffing.
- 4.13. Feedback underscores the need for enhanced rota gap management. Suggested measures include ongoing risk assessments by directorate management for each roster to

address potential gaps, well-defined contingency plans with clear communication, and a shift towards collaborative team responsibility rather than placing the burden on junior members. These steps aim to promote safer, more organised work conditions.

## Fines

- 4.14. Contractually; 'the Guardian of safe working hours will review all exception reports copied to them by doctors to identify whether a breach has occurred which incurs a financial penalty'. In practice Guardian review is not always possible as the exception reporting software doesn't reliably identify all types of breach.
- 4.15. In Q2, 26 exception reports described a possible breach of working hours regulations (8% of total exception reports (Q1 = 11%)).
- 4.16. Doctors routinely submitted these exception reports due to shifts stretching past the 13-hour limit, typically due to prolonged handovers driven by an influx of patient referrals. They frequently faced situations necessitating extended shifts to deliver urgent care, particularly during intricate multidisciplinary handovers and in response to pressing patient needs. Adherence to working hour limits posed difficulties during evening and night shifts, primarily due to late handovers and extensive patient documentation requirements. In emergency scenarios, with no other colleagues available, doctors extended their regular hours to ensure patient care continuity, inadvertently exceeding working hour limits.
- 4.17. New starters reported challenges in completing mandatory e-learning within their allocated time frames. This, combined with their clinical duties, resulted in breaches of working hour regulations.
- 4.18. Financial accounts relating to the fines are being reviewed by the central medical staffing team but are not available for this report.

## Junior Doctors Forum

- 4.19. The OUH Junior Doctors Forum (JDF) was established in 2016 and includes representatives from junior doctors and the Trust. The JDF plays a vital role in representing junior doctors' interests and facilitating effective communication between junior doctors and the Trust.
- 4.20. The JDF meeting for this quarter has been postponed until October, this was due to ongoing challenges with targeted communication to the new cohort of junior doctors.
- 4.21. In meetings with Foundation and IMT junior doctors during their induction at OUH, the guardian received constructive feedback, highlighting several issues in the induction process. These included delays and inaccuracies in receiving work schedules and duty rosters, difficulties accessing pre-employment information without an OUH email account, unaddressed email inquiries, and a perceived lack of a warm welcome, with junior doctors feeling rushed between processing sessions. Notably, junior doctors who were already at OUH shared similar experiences, expressing disappointment about the lack of visible improvements. However, they also emphasised the positive aspects of their teams and educational opportunities once they began their roles.

## **Safe Working Hours Assurance**

- 4.22. The assurance conveyed in these reports still hinges on the absence of system-wide issues and the observation that, when concerns are raised at an individual or service level, the response to address these issues has generally been satisfactory.
- 4.23. In striving to fulfil the core purpose of the quarterly guardian report, which is to offer assurance to the Board regarding the safety of doctors' working hours, the guardian has engaged in discussions with the Director of Assurance. Together, they are working on shaping a well-defined and purposeful framework for assuring safe working hours reporting.

## **5. Recommendations**

- 5.1. The Trust Board is asked to note this report.

**Appendix 1 – Exception Report Summary Data**

Summary of OUH exception reports: Jul/Aug/Sep.2023					
		Jul	Aug	Sep	Total
Reports (all reports submitted within 2 weeks of quarter ending)	Total	32	139	154	325
	Closed	31	138	150	319
	Open	1	1	4	6
<i>The data below relates to the 319 closed exception reports only</i>					
Individual doctors / specialties reporting	Doctors	18	48	55	88
	Specialties	9	18	15	22
Immediate concern		-	-	2	2
Nature of exception	Hours & Rest	31	135	146	312
	Education	1	6	9	16
Additional hours ('Hours & Rest' exception reports only)	Hours (plain time)	43.3	144.6	143.3	331.1
	Hours (night-time)	10.8	18.3	34.7	63.7
	Total hours	54.0	162.8	178.0	394.8
	Hours per exception report	1.7	1.2	1.2	1.3
Response	Agreed	31	137	150	318
	Not Agreed	-	1	-	1
Agreed Action ('No action required' is the default action for 'education' exceptions)	Time off in lieu	4	124	131	259
	Payment for additional hours	27	10	12	49
	No action required		3	7	10
Grade	F1	18	80	102	200
	F2	7	41	33	81
	StR	5	8	10	23
	IMT	1	9	5	15
Exception type (more than one type of exception can be submitted per exception report)	Late finish	29	127	136	292
	Unable to achieve breaks	6	33	52	91
	Exceeded the maximum 13-hour shift length	5	9	12	26
	Unable to attend scheduled teaching/training	1	6	6	13
	Minimum 11 hours rest between resident shifts	4	4	4	12
	Difference in work pattern	-	5	-	5
	Early start	3	1	1	5
	Request a work schedule review	-	1	1	2
	Difficulty completing workplace-based assessments	-	-	1	1
	Minimum continuous rest per 24-hour NROC shift	1	-	-	1
Specialty	General Medicine	11	23	50	84
	General Surgery	-	39	41	80
	Paediatric Surgery	3	13	10	26
	Medical Oncology	2	3	12	17
	Geriatric Medicine	-	8	8	16
	Cardio-vascular disease	5	7	2	14
	Renal medicine	-	4	8	12
	Infectious diseases	-	7	3	10
	Traumatic and Orthopaedic Surgery	-	5	5	10
	Rheumatology	-	7	1	8
	Cardiology	1	6	-	7
	Plastic Surgery	-	5	2	7
	Accident and emergency	3	-	3	6
	Haematology	3	1	2	6
	Neurosurgery	-	2	2	4
	Ophthalmology	-	3	-	3
	Urology	-	3	-	3
	Palliative Care	2	-	-	2
	Cardio-thoracic Surgery	-	1	-	1
	Obstetrics and gynaecology	1	-	-	1



	Otolaryngology (ENT)	-	1	-	1
	Respiratory medicine	-	-	1	1

**Appendix 2 – Locum Data**

<b>Summary of OUH Locum Filled Shifts: Jul/Aug/Sep.2023</b>					
		Jul	Aug	Sep	Total
Locum Shifts	Total	1,733	1,755	1,419	4,907
	Bank	1,331	1,242	1,013	3,586
	Agency	402	513	406	1,321
Grade	Specialty	821	835	681	2337
	Core	697	647	454	1798
	Foundation	212	273	284	769
	Unassigned	3	0	0	3
Specialty (top 20 specialties only)	Orthopaedic and Trauma Surgery	256	284	243	783
	Acute Medicine	235	238	93	566
	Cardiothoracic Surgery	115	155	116	386
	Emergency Medicine	149	97	83	329
	Cardiothoracic Medicine	91	110	122	323
	General Surgery	111	105	97	313
	Medicine	160	103	24	287
	Haematology	50	61	66	177
	Spinal Services	27	80	54	161
	Neurosurgery	48	52	58	158
	Obstetrics and Gynaecology	62	44	28	134
	Palliative Medicine	62	40	28	130
	Respiratory	21	40	43	104
	Oral and Maxillofacial surgery	35	21	27	83
	Gastroenterology	24	22	35	81
	Urology	29	16	34	79
	Neonatal Intensive Care	19	31	17	67
	Oncology	27	17	19	63
	Paediatric Surgery	27	9	27	63
Plastic Surgery	33	20	7	60	
Reason	Vacancy	1,127	1,222	1,107	3,456
	COVID-19	351	243	29	623
	Extra Cover	114	107	111	332
	Sick	79	44	97	220
	Other	16	119	31	166
	Pregnancy/Maternity Leave	23	8	9	40
	Compassionate/Special Leave	15	3	2	20
	Study Leave	3	0	15	18
	Exempt from On Calls	4	2	11	17
	Annual Leave	1	6	4	11
	Self-Isolation COVID-19 Auto Approved	0	1	2	3
	Paternity Leave	0	0	1	1
	Industrial Action Cover	0	0	0	0
Division	Medicine Rehabilitation and Cardiac	723	663	409	1,795
	Neurosciences Orthopaedics Trauma and Specialist Surgery	512	581	488	1,581
	Surgery Women and Oncology	389	339	336	1,064
	Not Mapped	108	172	185	465
	Clinical Support Services	1	0	1	2