

Policy on Exception Reporting and Work Schedule Reviews for Junior Doctors & Dentists (2016) Contract, Military Trainees, Trust Doctors & Clinical & Educational Supervisors

Issue Date	Review Date	Version
April 2018	April 2020	V2

Purpose

This policy will inform the process of implementation of Exception Reporting, Work Schedule Reviews and Guardian Fines as required in the 2016 Terms and Conditions of Service for Doctors & Dentists in Training and Trust Grade Doctors. The Trust is committed to supporting doctors who raise exception reports and ensuring that they are confident to raise issues when necessary.

Who should read this document?

All Doctors and Dentists in Training
Trust Doctors in non-permanent posts
All with any responsibility for Doctors and Dentists in Training, including Senior Medical and Dental Staff, Managers, Admin & Clerical Staff

Key Messages

PHNT, LNC and JDF jointly recognise the importance of maintaining the existing goodwill and professionalism and further improving the relationship between PHNT and the Medical and Dental Staff. It is understood that the successful implementation of the 2016 contract will involve a flexible partnership approach.

Core accountabilities

Owners	Guardian of Safe Working Hours & Medical HRBP
Review	Medical Staff Panel
Ratification	Director of People
Dissemination	Medical HR Office
Compliance	Director of People

Links to other policies and procedures

PHNT - Leave policy for Doctors and Dentists in Training, Trust Doctors
Terms and Conditions of Service for Doctors and Dentists in Training 2016
NHS Employers Contract Implementation Guidance July 2016

Version History

V1	April 2017	Agreed and approved by the Medical Staff Panel.
V2	April 2018	

The Trust is committed to creating a fully inclusive and accessible service. Making equality and diversity an integral part of the business will enable us to enhance the services we deliver and better meet the needs of patients and staff. We will treat people with dignity and respect, promote equality and diversity and eliminate all forms of discrimination, regardless of (but not limited to) age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage/civil partnership and pregnancy/maternity.

An electronic version of this document is available on Trust Documents on StaffNET.

Larger text, Braille and Audio versions can be made available upon request.

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1 Introduction

University Hospitals Plymouth NHS Trust (PHNT), Local Negotiating Committee (LNC) and Junior Doctor Forum (JDF) jointly recognise the importance of maintaining the existing goodwill and professionalism and further improving the relationship between PHNT and the Medical and Dental Staff. It is understood that the successful implementation of the 2016 contract will involve a flexible partnership approach. The spirit of the contract is that of mutual respect, cooperation and understanding between the trust (as employers) and individual doctors (as employees). GMC guidance reminds us of our obligations to provide safe and continuous care to our patients as well as the requirement for honesty and integrity in all aspects of our professional life.

Throughout the document when referring to junior doctors, please note that this covers junior doctors and dentists on the national training contract and Trust appointed doctors and dentists.

2 Purpose

These guidelines will inform the process of implementation and outcomes of Exception Reporting, Work Schedule Reviews and Guardian Fines as required in the 2016 Terms and Conditions of Service for Doctors and Dentists in Training. This will enable:

- 1) The highlighting of rotas or working patterns where working hours regularly differ from those described in a doctor's individual work schedule: this alerts the organisation to the need to review the rota and devise a solution to alter the working hours.
- 2) The acknowledging and remunerating of individual doctors who have to work beyond their contracted hours in order to ensure safe and effective patient care.

The reporting of hours worked which differ from those contracted will be done in real time electronically using the Allocate exception reporting software. Each reported exception will be considered by the individual doctor's clinical or educational supervisor as appropriate. The purpose of this step is to:

- a) Highlight "hot spots" and ensure that working hours issues are escalated and local solutions found where appropriate.
- b) Ensure that appropriate support is given to individuals who are struggling with working hours on a regular basis.
- c) Ensure that guidance about what constitutes a legitimate exception is applied fairly
- d) and consistently across the trust.
- e) Ensure that a work schedule for a doctor (or group of doctors) remains fit for purpose maintaining safe working hours and enabling required training opportunities to be met.

3 Definitions

3.1 Director of Medical Education; The DME is a member of senior medical staff and an employee of the employer / host organisation who leads on the delivery of postgraduate medical and dental education in the Local Education Provider (LEP), ensuring that doctors receive a high quality educational experience and that GMC/GDC standards are met, together with the strategic direction of the organisation and Health Education

England (HEE). The DME is responsible for delivering the educational contract between the LEP/ lead provider (LP) and HEE local team.

3.2 Doctor or Dentist in Training; A doctor or dentist in postgraduate medical or dental education, including military trainees, undertaking a post of employment or a series of posts of employment in hospital, general practice and/or other settings.

3.3 Educational/Clinical Supervisor; A named individual who is selected and appropriately trained to be responsible for supporting, guiding and monitoring the progress of a named trainee for a specified period of time. The educational supervisor may be in a different department, and occasionally in a different organisation, to the trainee. Every trainee should have a named educational supervisor and the trainee should be informed of the name of the educational supervisor in writing. This definition also covers approved clinical supervisors in GP practice placements.

3.4 Exception reporting; the mechanism used by doctors to inform the employer when their day-to-day work varies significantly and/or regularly from the agreed work schedule. Primarily these variations will be differences in:

- a) the total hours of work (including opportunities for rest breaks)
- b) the pattern of hours worked
- c) the educational opportunities and support available to the doctor, and/or
- d) the support available to the doctor during service commitments.

3.5 Guardian of Safe Working Hours; A senior appointment made jointly by the employer / host organisation and junior doctors, who ensures that issues of compliance with safe working hours are addressed by the doctor and/or employer/host organisation as appropriate and provides assurance to the Board of the employing organisation that doctors' working hours are safe.

3.6 Trust Doctor; Doctor or Dentist appointed directly by the Trust who is not in a designated training post or a member of the senior medical staff (SAS/Consultant).

3.7 Generic Work Schedule; a document that sets out the intended learning outcomes (mapped to the educational curriculum), the scheduled duties of the doctor, time for quality improvement, research and patient safety activities, periods of formal study (other than study leave), and the number and distribution of hours for which the doctor is contracted.

3.8 Work Schedule Review; a formal process by which changes to the work schedule may be suggested and/or agreed. A work schedule review can be triggered by one or more exception reports, or by a request from either the doctor or the employer. A work schedule review should consider safe working, working hours, educational concerns and/or issues relating to service delivery. A work schedule review will ordinarily take place at the end of the rota cycle unless there is a safety or educational concern raised which should generally be raised through exception reporting.

3.9 Personalised work schedule; an agreement between the educational supervisor and the doctor, based on the generic work schedule and personalised to the doctor's learning needs and the opportunities within the post.

3.10 Employer; The organization by which the employee is employed and which holds the contact of employment

3.11 Lead Employer; An organization that issues and holds the contract of employment throughout a Doctor's training programme, during which the Doctor may be deployed into one or more host organisations.

3.12 Host Organisation; An organization where a Doctor is deployed to work in a post for a fixed period of time under a lead employer arrangement.

3.13 Rota; The working pattern of an individual doctor or group of doctors.

3.14 Rota Cycle; The number of weeks' activity set out in the rota, from which the average hours of a doctor's work and the distribution of those hours are calculated.

4 Duties

4.1 Junior Doctors Responsibilities

4.1.1 Raising and acting upon Exception Reports

Exception reporting is the mechanism used by doctors to inform the employer when their day-to-day work varies significantly and/or regularly from the agreed work schedule. Primarily these variations will be differences in:

- a) the total hours of work (including opportunities for rest breaks)
- b) the pattern of hours worked
- c) the educational opportunities and support available to the doctor, and/or
- c) the support available to the doctor during service commitments.

The Allocate exception reporting system enables the raising of exceptions and highlighting of problems (Appendix 4 – Allocate instructions). The report should be submitted as soon as possible after the exception and no later than 14 days (or seven days when making a claim for compensation – time off in lieu (TOIL) or additional pay). The report should clearly state the date, time and duration of the exception and nature of variation from the work schedule. These should be addressed to the trainee's supervisor - Clinical Supervisor for Foundation Doctors; Educational Supervisor for all other trainees; the named Consultant for Trust Doctors. Junior Doctors should actively seek to discuss the report with their supervisor and respond to the proposed outcome in a timely fashion. Junior Doctors must then agree/ disagree with the outcome within the Allocate exception reporting system before compensation, including additional pay, can be awarded.

4.1.2 Educational Concerns

Trainees should raise educational exception reports when, due to clinical workload, they are unable to take part in training opportunities that are detailed in their personalised work schedules and/or are requirements for their ARCP.

It is vital that these reports are raised and logged so that, in addition to dealing with the individual report, an overview of missed opportunities can be gleaned.

4.1.3 Safe working/hours concerns

Trainees and Trust Doctors should raise safe working concerns when their work hours differ (including starting early, staying late, leaving early or rest breaks not able to be taken) from those described in their personalised work schedule as defined in their rota and Appendix 5 (Definition of Work). Within the exception report the shift start or end time should be clearly stated and the time the trainee left work.

4.1.4 Raising Immediate Safety Concerns

Doctors are also able to raise concerns when they feel there is an immediate risk to patient safety. These might be situations such as staffing levels which a doctor feels puts patient care at risk. However it is vital that doctors do not rely on this system as the only way of flagging up problems. Any doctor who has concerns that patient safety is imminently at risk must raise this with a more senior doctor in their department as soon as possible. It is important when raising an immediate safety concern that the junior doctor gives as much detail as possible within their exception report, including any steps taken by them to resolve the issue and which senior doctor they contacted to raise their concern.

A doctor raising an immediate safety concern can expect to be contacted directly by the Guardian of Safe Working Hours (GSWH).

4.1.5 Work schedule review

At the beginning of a placement a junior doctor should work with the CS or ES to produce a personalised work schedule which reflects their training requirements – see template in appendix. The work schedule should be regularly discussed to ensure that educational requirements are being met. If changes to the work schedule are required the junior doctor should work collaboratively to agree necessary changes. A work schedule review will ordinarily take place at the end of the rota cycle unless there is a safety or educational concern (raised through exception reporting).

4.1.6 Resolving Concerns

All doctors are responsible for working in partnership to address issues raised by exception reports such as attending and contributing to meetings for Work Schedule Reviews. If dissatisfied with the outcome of their initial review a formal request for a level 2 review can be requested within 14 days of notification of the initial decision (please refer to section 5).

4.2 Military Trainees

Military trainees have different contractual arrangements from trainees on the 2016 contract. The principles of safe working hours and raising education and safety concerns contained within the 2016 contract are equally applicable to them. All aspects of this policy will apply equally for military trainees with the exception of compensation in pay and the ability to levy Guardian fines. On the occasions when there is a requirement to stay beyond the hours of their normal rota shift then compensation as time off in lieu will be the

only option available.

4.3 Clinical/Educational Supervisor Responsibilities

It is the responsibility of the clinical/educational supervisor to work with the junior doctor to produce a personalised work schedule according to individual learning needs, to encourage appropriate exception reporting and to review the exception report and discuss as soon as possible with the doctor or dentist to agree what action is necessary to address the issue. These meetings should discuss the reasons behind the exception and determine whether TOIL or payment for additional hours is appropriate. In agreeing compensation the supervisor will state the actual time due in compensation for TOIL or pay. If TOIL cannot be taken by the end of the placement, payment for these hours can be claimed. Frequent hours, safety or training concerns may require a review of the personalised work schedule to address recurring problems; these should ordinarily be done at the end of the rota cycle except where a safety or training issue has been raised through exception reports.

The supervisor will set out the agreed outcome of the exception report, including any agreed actions, in an electronic response to the doctor. A summary of the concerns raised, and the corrective action taken will be copied to the Director of Medical Education (DME) or GSWH as appropriate which may form part of the annual report to the Trust Board by either the DME or GSWH; the report will be anonymised.

The outcome of an hours or education exception could be:

- a) No change to work schedule
- b) Prospective documented changes to the work schedule are made
- c) Compensation – Pay or TOIL*
- d) Organisational Changes e.g. change to ward round timing

* Compensation for a training exception will be used by the trainee to take part in an equivalent training activity to that missed e.g. clinic, workplace based assessment, online learning in lieu of tutorial etc. Military trainees and trust doctors on the old trust contract (pre 2017) are not eligible for compensation as pay; they are eligible for TOIL.

In agreeing compensation as TOIL this will be managed locally; the educational supervisor and doctor will ensure it happens. Compensation as Pay will be managed by the processes agreed with Medical HR, GSWH and Payroll/Finance.

If in the process of undertaking a work schedule review issues or concerns are identified that may affect more than one doctor working on a particular rota, it may be appropriate to review other schedules forming part of that rota. Such reviews should be carried out jointly with all affected doctors and, where appropriate, changes may be agreed to the working pattern for all doctors working on that rota.

4.4 Guardian of Safe Working Hours Responsibilities

It is the responsibility of the GSWH to:

- a) review all exception reports in respect of safe working hours.
- b) monitor compliance with the terms and conditions, escalating issues in relation to working hours as appropriate (if not addressed at department level) such as requiring a work schedule review to be undertaken
- c) levy GSWH fines (Appendix 11) as appropriate following any breach in safe working hours and distribute money in conjunction with the JDF to improve training and service experience
- d) provide regular reports on Exception Reports and Work Schedule Reviews, distributed to the JDF, LNC and Trust Board.
- e) provide an Annual Report for the Trust Board as part of the Quality Account.

4.5 Director of Medical Education Responsibilities

It is the responsibility of the DME to:

- a) review all exception reports in respect of training,
- b) deputise for the GSWH when required
- c) work in partnership with the Guardian to support any work schedule reviews
- d) review the importance of the educational activity missed and assess any alterations in working pattern to ensure adequate educational activities can be provided
- e) discuss difficulties with other members of the training team as appropriate e.g. College Tutor, Training Programme Director, Regional Advisor or Head of School
- f) provide an Annual Report for the Trust Board on issues related to education and training.

5 Main Body of Policy

5.1 Guardian Fines & Protecting Junior Doctors from Unsafe Working Hours

The 2016 contract has the implementation of safe working hours as a core principle. The principle working hours limits are:

Maximum **48 hours per week on average** (the averaging cycle being the number of weeks on the template rota or 26 weeks whichever is shortest),

Maximum of 72 hours in any seven day period

Minimum 8 hours rest between shifts

Significant fines are levied against departments that allow their junior doctors and dentists in training (fines do not apply to Trust or Military Doctors) to breach these limits or where **breaks have been missed on 25% or more of occasions over a four week reference period**. Where the trainee is aware that extra work will result in them breaching safe working limits they must alert the approving Consultant of this fact so that they can consider whether the work is of such importance that it justifies breaching the safe working limits. It is accepted that it may be difficult for juniors to know the effect of the extra work on their individual rolling 48 hour per week average which may not be apparent until the end of their rota cycle. If extra work which is likely to cause the doctor to breach the safe working limits is identified during the initial review with their Supervisor then every attempt should be made to arrange compensatory TOIL during the current

rota cycle to avoid such a breach.

Doctors claiming under the “urgent” classification should expect extra scrutiny of their exception report if they subsequently exceed safe working limits. Supervisors should attempt to arrange for compensatory TOIL in these situations to prevent breaches of safe working limits. Claims under “emergency” work will always be honoured if found to be appropriate (although compensatory TOIL would be preferred if possible).

5.2 Work Schedule Review

Where a Doctor, an Educational/Clinical Supervisor, a manager, DME or the GSWH has requested a work schedule review, the process set out below will apply. A work schedule review will ordinarily take place at the end of the rota cycle unless there is a safety or educational concern which is generally raised through exception reporting; the GSWH and DME must be notified. A rota rewrite after a contract has been issued which would require a change to the work schedule, contract and pay MUST follow the process as set out below and can only occur in exceptional circumstances after written discussion with the GSWH, the service line lead responsible for the junior doctors and Medical HR manager.

5.3 Level 1 – Informal discussion between the Doctor and Educational/Clinical Supervisor in an attempt to resolve the issue quickly

5.3.1 The Educational/Clinical Supervisor shall meet or correspond with the Doctor as soon as is practicable, ideally no later than seven working days after receipt of a written request for a review. Where this is in response to a serious concern that there was an immediate risk to patient and/or Doctor safety, this must be followed up within seven working days.

5.3.2 The conversation between the Doctor and the Educational/Clinical Supervisor will lead to one or more of the following outcomes:

- a) No change to the work schedule is required
- b) Prospective documented changes are made to the work schedule
- c) Compensation - Pay or TOIL
- d) Organisational changes, such as a review of the timing of ward rounds.

5.3.3 Organisational changes may take time to be enacted. Where this is the case, temporary alternative arrangements, including amendments to pay, may be necessary.

5.3.4 The outcome of the conversation will be communicated in writing and a copy sent to the DME and the GSWH. (Please refer to Template Letter 1 in Appendix 6)

5.4 Level 2 – Formal meeting

5.4.1 If unhappy with the outcome, the Doctor may formally request a level 2 work review within 14 days of notification of the decision. The request should set out the areas of disagreement about the work schedule, and the outcome that the doctor is seeking.

5.4.2 A level 2 review discussion shall take place no more than 21 working days after

receipt of the Doctor's formal written request. A level 2 review requires a meeting between the Educational/Clinical Supervisor, the Doctor, a service representative and a nominee either of the DME (where the request pertains to training concerns) or of the GSWH (where the request pertains to safe working concerns). Where the Doctor is on an integrated academic training pathway, the academic supervisor should also be involved.

5.4.3 The discussion will first consider the outcome of the level 1 conversation and will result in one or more of the following outcomes:

- a) The level 1 outcome is upheld
- b) Compensation - Pay or TOIL
- c) No change to the work schedule is required
- d) Prospective documented changes are made to the work schedule
- e) Organisational changes, such as a review of the timing of ward rounds

5.4.4 The outcome shall be communicated in writing and a copy should be sent to the DME and the GSWH.

5.5 Final – Formal Hearing

5.5.1 If unhappy with the Level 2 decision, the Doctor may request a final stage work review within 14 days of notification of the decision. The request should set out the areas of disagreement about the work schedule, and the outcome that the Doctor is seeking.

5.5.2 The final stage for a work schedule review is a formal hearing under the final stage of the Trust's grievance procedure, with the proviso that the DME or nominated deputy must be present as a member of the panel.

5.5.3 The GSWH may in some circumstances be involved at this stage.

5.5.4 The hearing will usually take place within one month from the receiving the Doctor's concern in line with the Trust's grievance procedure.

5.5.5 Where the Doctor is appealing a decision previously taken by the GSWH hours, the hearing panel will include a representative from the BMA or other recognised trade union nominated from outside the employer/host organisation, and provided by the trade union within one calendar month.

5.5.6 The panel hearing will result in one or more of the following outcomes:

- a) The level 2 outcome is upheld

- b) Compensation - Pay or TOIL
- c) No change to the work schedule is required
- d) Prospective documented changes are made to the work schedule
- e) Organisational changes, such as a review of the timing of ward rounds

5.5.7 The outcome shall be communicated in writing and a copy provided to the GSWH.

5.5.8 The decision of the panel shall be final.

5.5.9 Where at any point in the process of a work schedule review, either the Doctor or the reviewer identifies issues or concerns that may affect more than one Doctor working on a particular rota, it may be appropriate to review other schedules forming part of that rota.

5.5.10 In this case, such reviews should be carried out jointly with all affected Doctors and, where appropriate, changes may be agreed to the working pattern for all affected Doctors working on that rota, following the same processes as described in paragraphs 5.3.1 to 5.5.8 above.

5.6 Lead Employer Arrangements

Where a Lead Employer/Host organisation situation exists the Trust (as Lead Employer) will liaise with the Host organisation whereby a work schedule review by the Hosts's GSWH has identified that the work schedule needs to be revised and reissued (by the Trust).

The Lead GSWH will have overall accountability.

6 Overall Responsibility for the Document

Director of People.

7 Consultation and Ratification

The design and process of review and revision of this policy will comply with The Development and Management of Formal Documents.

The review period for this document is set as default of two years from the date it was last ratified, or earlier if developments within or external to the Trust indicate the need for a significant revision to the procedures described.

This document will be reviewed and approved by the Medical Staffing Panel and ratified by the Director of People.

Non-significant amendments to this document may be made, under delegated authority from the Director of People, by the nominated owner. These must be ratified by the Director of People, LNC and Junior Doctor's Forum.

Significant reviews and revisions to this document will include a consultation with named groups, or grades across the Trust. For non-significant amendments, informal consultation will be restricted to named groups, or grades who are directly affected by the proposed changes.

8 Dissemination and Implementation

This document is published on the Trust Document Network Share Folder. The Clinical Information Systems Governance Manager is responsible for holding and maintaining a master file containing a register and a signed copy of the policy and corresponding Equality Impact Assessment.

The Clinical Information Systems Governance Manager will ensure that old versions of the policy are archived in the archive master file. Access to archived documents will be through the Clinical Information Systems Governance Manager

The Clinical Information Systems Governance Manager will issue the policy numbers and maintain an index that will include the document's title, policy number and version, owner, issue date and next review date.

The approvals are indicated by the front sheet of the document as is the version control.

Following approval and ratification by the above group, this policy is being rolled out across the Trust.

Publication of this policy has been publicised in Vital Signs, the Trust's weekly staff news briefing. All Directorate Managers will have had the policy sent to them and it is available electronically on the Trust Document Network Share Folder.

9 Monitoring Compliance and Effectiveness

The Trust will undertake a regular audit of the processes specified in this policy. It should be noted that the responsibilities in this policy are enforceable and that managers (and employees where applicable) failing to uphold their responsibilities may find themselves in breach of internal disciplinary policies.

10 References and Associated Documentation

UHP - Leave policy for Doctors and Dentists in Training, Trust Doctors

Terms and Conditions of Service for Doctors and Dentists in Training 2016
<http://www.nhsemployers.org/case-studies-and-resources/2017/03/junior-doctors-terms-and-conditions-of-service-march-2017>

NHS Employers Contract Implementation Guidance July 2016

<http://www.nhsemployers.org/-/media/Employers/Documents/Need%2oto%20know/Implementation%20guidance%20for%20employers%202107.pdf>

Dissemination Plan			
Document Title	Policy on Exception Reporting for Junior Doctors & Dentists (2016) Contract, Trust Doctors (new contract) & Clinical & Educational Supervisors		
Date Finalised	February 2017		
Previous Documents			
Action to retrieve old copies	The Document Controller will ensure that old versions of the policy are archived in the archive master file. Access to archived documents will be through the Document Controller		
Dissemination Plan			
Recipient(s)	When	How	Responsibility
All doctors and dentists in training & trust grades doctors	Email & Vital Signs	Electronic	Medical HR/Guardian of Safe Working Hours
Senior Medical & Dental Staff	Email & Vital Signs	Electronic	Medical HR/Guardian of Safe Working Hours
Trust Service Line Managers and admin staff	Email & Vital Signs	Electronic	Medical HR/Guardian of Safe Working Hours

Review and Approval Checklist

Appendix 2

Review Checklist		
Title	Is the title clear and unambiguous?	Y
	Is it clear whether the document is a policy, procedure, protocol, framework, APN or SOP?	Y
	Does the style & format comply?	Y
Rationale	Are reasons for development of the document stated?	Y
Development Process	Is the method described in brief?	Y
	Are people involved in the development identified?	Y
	Has a reasonable attempt has been made to ensure relevant expertise has been used?	Y
	Is there evidence of consultation with stakeholders and users?	Y
Content	Is the objective of the document clear?	Y
	Is the target population clear and unambiguous?	Y
	Are the intended outcomes described?	Y
	Are the statements clear and unambiguous?	Y
Evidence Base	Is the type of evidence to support the document identified explicitly?	Y
	Are key references cited and in full?	Y
	Are supporting documents referenced?	Y
Approval	Does the document identify which committee/group will review it?	Y
	If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document?	Y
	Does the document identify which Executive Director will ratify it?	Y
Dissemination & Implementation	Is there an outline/plan to identify how this will be done?	Y
	Does the plan include the necessary training/support to ensure compliance?	Y
Document Control	Does the document identify where it will be held?	Y

	Have archiving arrangements for superseded documents been addressed?	Y
Monitoring Compliance & Effectiveness	Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document?	Y
	Is there a plan to review or audit compliance with the document?	Y
Review Date	Is the review date identified?	Y
	Is the frequency of review identified? If so is it acceptable?	Y
Overall Responsibility	Is it clear who will be responsible for co-ordinating the dissemination, implementation and review of the document?	Y

Core Information

Date	April 2018
Title	Policy on Exception Reporting and Work Schedule Reviews for Junior Doctors & Dentists (2016) Contract, Military Trainees, Trust Doctors & Clinical & Educational Supervisors
What are the aims, objectives & projected outcomes?	This policy has been agreed between UHP management, the Local Negotiating Committee (LNC) and the Junior Doctors Forum (JDF) and will inform the process of Exception Reporting and Guardian Fines as required in the 2016 Terms and Conditions of Service for Doctors & Dentists in Training and Trust Grade Doctors. The Trust is committed to supporting doctors who raise exception reports and to ensure that they are confident to raise issues when necessary.

Scope of the assessment

The document has been circulated with the accompanying Equality Impact Assessment to all members of the Medical Staff Panel and the Junior Doctors Forum.

Collecting data

Race	This is mitigated as the policy can be made available in alternative languages
Religion	The document has no impact on this area
Disability	This is mitigated as the policy can be made available in alternative formats
Sex	The document has no impact on this area
Gender Identity	The document has no impact on this area
Sexual Orientation	The document has no impact on this area
Age	The document has no impact on this area
Socio-Economic	The document has no impact on this area
Human Rights	The document has no impact on this area
What are the overall trends/patterns in the above data?	There are no trends/patterns in this data.
Specific issues and data gaps that may need to be addressed through consultation or further research	Trust wide documents can be made available in a number of different formats and languages if requested. No further research is required as there are no further equality issues.

Involving and consulting stakeholders

Internal involvement and consultation	The policy has been circulated for consultation to the members of the Medical Staff Panel.
External involvement and consultation	N/A

Impact Assessment

Overall assessment and analysis of the evidence

This assessment has shown that there could be an impact on race or disability groups. However, this document can be made available in other formats and languages if requested.

The document does not have the potential to cause unlawful discrimination. The document does not have any negative impact.

Action Plan

Action	Owner	Risks	Completion Date	Progress update
Provide document in alternative formats and languages if requested	Medical HR Business Partner	Potential cost impact	Ongoing	This action will be addressed as and when the need occurs

Please use the below links to access the Allocate Guidance on the use of the exception reporting system:

[Guidance for Junior Doctors](#)

[Guidance for Educational/Clinical Supervisors](#)

Emergency work: Unplanned and unavoidable work such as assisting at cardiac arrest or major haemorrhage. There would be no requirement for pre-authorisation of this work and all such work would be remunerated

Urgent work: difficult to postpone/handover clinical work such as talking to a relative, finishing clerking a patient, finishing a procedure on the ward. The trainee can use their professional judgement to determine whether they should to seek approval in advance but should be prepared to justify their reasoning with their Educational Supervisor (a discussion might, for example, be expected to address why this work hadn't been done earlier in the day).

Elective work: e.g. catching up with a backlog of discharge summaries, staying late to finish work that could be handed over or done tomorrow. This would always have to be approved in advance with the Consultant on call who would have to have a clear justification.

Educational activity: the 2016 contract personalised work schedules require an explicit description of opportunities for education/training. On rare occasions (particularly for those in specialty training) a doctor may need to stay late to do something which directly benefits their education or helps them to achieve outcomes on their personalised work schedule. Examples would be observing or assisting in uncommon practical procedures that more often occur out of hours. Such exceptions should have been agreed in principle in advance with educational supervisors.

Dear

Re: Outcome Level 1 Work Schedule Review Meeting

Thank you for attending the meeting on ***** *(insert date)*. The meeting had been arranged to consider the request for a Work Schedule review in accordance with the Policy on Exception Reporting for Junior Doctors & Dentists (2016) Contract, Trust Doctors (new contract) & Clinical & Educational Supervisors.

During the meeting we discussed the reasons for the request which were: *Detail reasons for review*

Having had the opportunity to fully consider the issues, I am writing to confirm the outcome as discussed at our meeting.

Delete as appropriate

- a) No change to the work schedule is required.
- b) Prospective documented changes are made to the work schedule.
- c) Compensation - Pay or TOIL.
- d) Organisational changes, such as a review of the timing of ward rounds.

The reasons for this decision are as follows.....*state reasons*

I do hope you are happy with this outcome. If for any reason you do not feel your concerns have been satisfactorily addressed then you do have the right to request a level 2 review. To request a level 2 review you are required to put your reasons in writing to Director of Medical Education (where the request relates to training concerns) or of the Guardian of Safe Working Hours (where the request relates to safe working concerns) within 14 calendar days of the date of this letter.

If the Director of Medical Education/Guardian of Safe Working Hours does not hear from you within 14 days of this letter then we will assume that your concerns have been satisfactorily resolved.

Yours sincerely

Clinical/Educational Supervisor

Cc DME and Guardian of Safe Working Hours

Doctors and Dentists in training may wish to request a level 2 or Final work review. This request should be made within 14 days of notification of the original decision. The request should be sent to your educational or clinical supervisor as relevant and copied to the DME and GSWH in an electronic format.

The following information should be included:

- The names of those raising the review and any BMA or other recognised trade union representatives.
- Full contact details of the parties above (name, work address, email, bleep number and contact telephone number).
- Identify any dates you are not available to meet.
- Describe the areas of disagreement about the work schedule in as much detail as possible.
- Detail any action that has already been taken to resolve the concerns that you are raising. Please detail why this has not been successful.
- Outline the resolution that you are seeking in order to address the concerns you are raising.

Dear

Re: Level 2 Work Schedule Review Meeting

I write to acknowledge receipt of your letter, dated *****, requesting a level 2 Work Schedule Review.

I would like to invite you to a meeting to fully discuss your request in accordance with the Trust's Policy on Exception Reporting for Junior Doctors & Dentists (2016) Contract, Trust Doctors (new contract) & Clinical & Educational Supervisors.

The meeting has been arranged for **** (*Day and date*) at **** (*Time*). The meeting will be held in **** (*Location*). You are required to make every effort to attend the meeting.

In addition to myself, the following individuals will be present to assist in our discussions:

Detail Name & Job Title

- Service Representative
- nominee either of the director of postgraduate medical education (where the request pertains to training concerns) or of the guardian of safe working hours (where the request pertains to safe working concerns).
- Where the Doctor is on an integrated academic training pathway, the academic supervisor should also be involved

Our discussion will consider the outcome of the level 1 conversation and will result in one or more of the following outcomes:

- a) The level 1 outcome is upheld.
- b) Compensation -Pay or TOIL.
- c) No change to the work schedule is required.
- d) Prospective documented changes are made to the work schedule.
- e) Organisational changes, such as a review of the timing of ward rounds.

Please confirm your attendance at the meeting with [name, telephone number].

Yours sincerely

Clinical/Educational Supervisor

Cc Director of Medical Education and Guardian of Safe Working Hours

Dear

Re: Outcome Level 2 Work Schedule Review Meeting

Thank you for attending the meeting on ***** *(insert date)*. The meeting had been arranged to consider the request for a Work Schedule **level 2** review in accordance with the Trust's Policy on Exception Reporting for Junior Doctors & Dentists (2016) Contract, Trust Doctors (new contract) & Clinical & Educational Supervisors.

Present at the meeting were: *list attendees name and job title*

During the meeting we discussed the reasons for the request which were: *Detail reasons for review*

Having had the opportunity to fully consider the issues, I am writing to advise you of the decision made by those present.

Delete as appropriate

- a) The level 1 outcome is upheld.
- b) Compensation - Pay or TOIL.
- c) No change to the work schedule is required.
- d) Prospective documented changes are made to the work schedule.
- e) Organisational changes, such as a review of the timing of ward rounds are needed.

The reasons for this decision are as follows.....*state reasons*

I do hope this response has helped to bring this matter to a satisfactory conclusion. If for any reason you do not feel this has satisfactorily resolved your concerns then you have the right to request a **Final** level review. To request a final level review you are required to put your reasons in writing to Director of Medical Education (where the request relates to training concerns) or to the Guardian of Safe Working Hours (where the request relates to safe working concerns) within 14 calendar days of the date of this letter.

If the Director of Medical Education/Guardian of Safe Working Hours does not hear from you within 14 days of this letter then we will assume that your concerns have been satisfactorily resolved.

Yours sincerely

Supervisor

Cc Director of Medical Education and Guardian of Safe Working Hours

1. Requesting a Final Stage Work Schedule Review

- 1.1 A trainee Doctor who wishes to lodge a Final Stage Work Schedule Review must do so in electronic format to either the DME (where the request relates to training concerns) or of the GSWH (where the request relates to safe working concerns) within 14 calendar days' of the date of the letter confirming the outcome of the Level 2 review.
- 1.2 The request must set out the areas of disagreement about the work schedule, and the outcome that the Doctor is seeking. It is recommended that the Template form for Level 2 & Final Stage Work Schedule Review's is used which can be found at Appendix 8 & 9.
- 1.3 Failure to provide details of the grounds for the review may lead the Trust to decline the request.
- 1.4 The purpose of the final stage review is to consider whether the action taken to resolve the issues was fair and reasonable taking into consideration all the relevant facts and circumstances. The final review is not a rehearing of the original meetings, but rather a consideration of the specific areas with which the Doctor is dissatisfied in relation to the original request for a work schedule review.
- 1.5 The decision of the panel is final.
- 1.6 If the Doctor fails to attend the meeting without explanation the final stage review may take place in their absence and a decision made in their absence.

2. Composition of Final Stage Review Panel

- 2.1 Panels may be drawn from:
 - Medical Director
 - Deputy Medical Directors
 - Director of Medical Education – if not previously involved at Level 2
 - Clinical Directors
 - Directors
 - Chief Operating Officer or Deputy
 - Service Delivery Unit Managers
 - Heads of Service
- 2.2 The appeal panel should comprise of the DME or nominated deputy, one clinical senior manager and a senior manager from the list above and a HR representative providing professional support to the panel.

2.3 Where the Doctor is appealing a decision previously taken by the GSWH the hearing panel will include a representative from the BMA or other recognised trade union nominated from outside the Trust, and provided by the trade union within one calendar month.

3. Prior to a Final Stage Work Schedule Review

3.1 Where possible the Doctor will be given a minimum 14 calendar days' notice of the date, time and venue of the meeting.

3.2 The Doctor has the right to appear personally before the panel, either alone or accompanied by a trade union representative or workplace colleague.

3.3 The Doctor will be required to submit a written statement setting out the areas of disagreement about the work schedule, and the outcome that the doctor is seeking, together with any supporting evidence a minimum of 7 calendar days before the meeting is due to take place, unless otherwise agreed.

3.4 As soon as the statement has been received this, together with all previous documentation/information referred to at levels 1 and 2 should be simultaneously circulated to:

- Panel members
- Doctor
- Doctor's representative

4. Conducting a Final Stage Review Meeting

4.1 The Chair of the panel will:

- Introduce those present.
- Explain the purpose of the meeting.
- Advise all present of the order of the procedure, which will be followed at the meeting, and to ensure that it is understood by the doctor and where appropriate their representative.

4.2 The following procedure should be adopted:

The Doctor or their representative will present their case.

The panel may ask questions of the Doctor.

The Doctor or their representative will sum up their case. The summing up shall not introduce any new matter.

Following summing up the Doctor and their representative will leave the room.

4.3 It should be noted that the panel members may:

- Reserve the right to request a service representative attends to present/clarify their position
- Ask for clarification of any statements made during the course of the proceedings.
- Decide to adjourn at any stage, or at the request of the Doctor. The duration of the adjournment will be made clear and a decision reached on the time the meeting is to be reconvened.

4.4 When all the evidence has been presented the meeting should be adjourned for the panel, with Human Resources support in attendance, to reach a decision on the case. The Doctor may be recalled if points of uncertainty need to be clarified.

4.5 Once a decision has been reached the Doctor and their representative will be written to advising them of the panel's decision.

4.6 The panel hearing will result in one or more of the following outcomes:

- a) The level 2 outcome is upheld.
- b) Compensation - Pay or TOIL.
- c) No change to the work schedule is required.
- d) Prospective documented changes are made to the work schedule.
- e) Organisational changes, such as a review of the timing of ward rounds are needed.

4.7 The outcome shall be communicated in writing and a copy provided to the GSWH, the DME, the Medical HR Business Partner and any other manager relevant who is responsible for enacting any changes that have been specified by the hearing panel.

4.8 The decision of the appeal panel is final

Payment of Additional Hours

Payment for compensation instead of TOIL will be paid as follows:

- **Monday – Friday 07:00 – 21:00** – basic pay (1/40th of weekly salary for each hour worked.
- **Monday – Friday 21:00 – 07:00** – basic pay as above plus 37% enhancement.
Where a shift begins no earlier than 2000hrs and no later than 2359hrs, and is at least 8 hours in duration, an enhancement of 37% of the hourly basic rate shall also be payable on all hours worked up to 1000hrs on any day of the week
- **Saturday & Sunday** – as per the locum rates defined in Annex A of the Medical & Dental Pay Circular (available on NHS Employers website).

NB: Please note that for military trainees and trust doctors on the old trust contract (pre 2017), payment is not applicable however they are entitled to time off in lieu for any hours worked above the hours on their rota.

Guardian Fines

Penalty rates and fines for hours worked at the basic hourly rate

The total figure is based on x4 multiplier of the basic hourly rate, with the doctor receiving x1.5 of the basic hourly locum rate, and the balance going to the GSWH:

Nodal Point	Total hourly (x4) figure	Hourly penalty rate (£), paid to the doctor	Hourly fine (£), paid to the Guardian of safe working hours
1	52.07	23.83	28.24
2	60.27	27.59	32.68
3	71.34	32.64	38.70
4	90.39	41.38	49.02

Penalty rates and fines for hours worked at the enhanced hourly rate

The total figure is based on x4 multiplier of the enhanced hourly rate, with the doctor receiving x1.5 of the enhanced hourly locum rate, and the balance going to the GSWH:

Nodal Point	Total hourly (x4) figure	Hourly penalty rate (£), paid to the doctor	Hourly fine (£), paid to the Guardian of safe working hours
1	71.34	32.64	38.70
2	82.57	37.79	44.78
3	97.72	44.72	53.01
4	123.85	56.68	67.17

Payment of Guardian Fines

The GSWH will inform the finance and payroll department when a fine has been put in place. The information supplied by the GSWH will include the details of the breach and the name of the junior doctor who will need to be compensated. The payroll and the finance teams will ensure that both the junior doctor receives the compensation due and that monies are appropriately transferred into the GSWH’s budget, Budget 121100 - Guardian of Safe Working Practice to use for training purposes.

NB: Please note that the above rates may change annually in line with the review of the

Medical and Dental Pay Circular.