

Enc 5

Report from the Guardian of Safe Working (GoSW) for the Trust Board

Executive Summary:

- 49 F1 at NHCT on the 2016 TCS, approximately 150 trainees from August 2017
- 48 ER submitted by 12 individuals between December and April
- 41 relate to hours and rest, 7 relate to education, all from MECCBU
- No fines applied to the trust as of now
- Gaps remain a problem going forwards and more useful information should be available in July
- Junior Doctor agency locum spend £1.43m in 11 months to February
- Further work planned with finance and payroll to clarify locum spend, rates and venues

Background:

The 2016 Junior Doctors Contract (TCS) came into effect on 3 August 2016. This contract applies to all junior doctors in England and junior doctors will progressively start working under these TCS over the coming year. The F1 in all of England started working under the TCS on 7 December 2016 and psychiatry trainees followed on 5 April 2017. From 2 August 2017 most junior doctors in England will be working under the TCS, however the situation is somewhat different in the North East as due to the Lead Employment Trust (LET) arrangements 1650 doctors are in longer term contracts and they will not move to the 2016 TCS. Consequently, in our region we will have a mixed contract economy with trainees on both the 2002 and 2016 TCS for several years to come.

In NHCT we now have 49 F1 working under the 2016 TCS and in August the F2 and all core level (ST1 and ST2 trainees) will be working under the 2016 TCS. Higher trainees (\geq ST3) may or may not be on the 2016 TCS depending on whether they have long term contracts with the LET or not. We estimate that approximately 150 junior doctors will be working under the 2016 TCS at NHCT from August 2017.

As part of the introduction of the 2016 TCS, a new role of GoSW was created for a senior clinician, not involved in the trust management structure, to monitor and ensure the safe implementation of the 2016 TCS. The GoSW reports directly to the medical director and presents a summary of progress and concerns to the trust board on a quarterly basis.

Key changes:

The 2016 TCS provide the first ever contractual link between education and training for junior doctors. Activity in each job is set out in a work schedule that sets out the expectations and training opportunities for the junior doctors in that post in addition to the duty pattern and out of hours work. Junior doctors can report deviations from the work schedule using the process known as Exception Reporting using an online system. All Exception Reports (ER) are dealt with by the supervisor in the first instance with the GoSW having ultimate responsibility for the hours and rest ER and the Director of Medical Education (DME) carrying ultimate responsibility for ER relating to education and training. ER can be dealt with by either

allowing Time off In Lieu (ToIL) for additional work that has been undertaken or payment at the relevant rate if ToIL is not possible. Education ER are dealt with on a case by case basis.

There are a number of other changes in the 2016 TCS relating to hours of work. The main changes are that the total number of hours worked per week (on average over a rota cycle) is 48 with an absolute maximum number of 72 hours in any rolling seven day period. Shifts can now be a maximum of 13 hours in length and trainees can only work 5 long shifts (classified as a shift >10 hours) or 4 late or night shifts before a break. A full [list of the rules](#) can be found on the NHS Employers website in the Junior Doctors' 2016 Contract area. Breaches of certain hours and rest rules results in the trust having to pay fines to the trainee and the GoSW controlled fund. This fund can only be spent on delivering services that will benefit other junior doctors, over and above the core services the trust is already providing, that it must also continue to do so going forwards.

The other significant change for trainees working under the 2016 TCS is that they will now be paid for the hours they work rather than based on which pay supplement bracket the rota pattern they are working on falls into. The previous system resulted in large pay fluctuations across the year as the supplements ranged from 0 – 50% of the basic salary whereas the 2016 TCS provide a higher basic salary with a smaller proportion paid for out of hours work. Trainees on the 2016 contract are also mandated to offer any additional locum hours they choose to work to the NHS in the first instance via a staff bank. The rates of pay are prescribed in the Pay Circular from NHS Employers and are significantly lower than rates previously offered to doctors at the same stage of training. Given the mixed economy we will continue with in the North East, this may cause some issues when looking for locums as the doctors still working under the 2002 TCS will be able to offer any additional hours they choose to work via an agency or at a rate agreed outwith the national pay scales for trainees working under the 2016 TCS. This may restrict the supply of available locum staff initially or see trusts offering to pay over and above the national rate, although this is being actively discouraged at a regional and national level.

Exception Reports:

Between 7 December 2016 and 4 April 2017 46 unique ER covering 48 exceptions were submitted by 12 F1 at NHCT. 45 of these were agreed by the supervisor or are pending review by the supervisor. Of the 48 ER, 7 related to education and training and 41 related to hours and rest. 2 themes emerge from the education and training ER with 3 ER due to a missed teaching session and 4 due to workload issues preventing the trainee from attending weekly teaching.

The hours and rest ER are all from MECCBU and the recurring theme is that the workload is so great that trainees are having to stay beyond their scheduled shift finish time to complete the tasks expected of them. Other than one education ER, all of the ER have been agreed by the supervisors. Resolution of the hours and rest ER had been planned to be with a mixture of ToIL and payment, however we note that due to staffing pressures, at least 2 trainees were unable to take ToIL in the placement when the ER arose so consequently these ER now have to be resolved with payment. As the payment may result in a breach of the hours limits, it is possible that fines might accrue. We are working with the trainees and supervisors to close the outstanding ER as soon as possible. To date there have been no fines levied on the trust.

Exception Report Summary from 07/12/16 - 04/04/17															
Business Unit	Sub-Business Unit	Total ER	Subtotal H&R	Subtotal Ed.	Hours & Rest					Education					
					Closed	Closure Method	Open	Overdue	Themes	Closed	Closure Method	Open	Overdue	Themes	
MECCBU	Cardiology NSECH	8	5	3	5	TOiL				Late finish	3	Reprovision of session/No Action			2 teacher held up. 1 due to workload.
MECCBU	Cardiology Base	5	5	0	3	TOiL	2	2	Late finish						
MECCBU	CoTE Base	9*	9	1	8	6 TOiL, 1 Payment, 1 No Action	1	1	Late finish	1	Agreed				Unable to attend teaching due to workload
MECCBU	Gastro NSECH	15**	14	2	11	Payment	3	3	Late finish	2	Agreed				Unable to attend teaching due to workload
MECCBU	Gastro Base Site	4	4	0	4	Payment			Late finish						
MECCBU	Respiratory NSECH	1	1	0	1	TOiL			Late finish						
MECCBU	Respiratory Base	3	3	0	1	Payment	2	2	Late finish						
MECCBU	A&E	1	0	1						1	Not agreed				Not a mandatory session
	Overall Totals	46	41	7											

Notes: 46 unique ER with 2 ER for both Hours and Rest and Education and are therefore counted in each section.
* CoTE Base has 1 ER for both Hours and Rest and Education
** Gastro NSECH has 1 ER for both Hours and Rest and Education

ER numbers are being monitored and reported monthly to the Business Unit Directors and weekly to the sub-business unit with active ER. Although there is a contractual obligation to close off ER by a meeting between the supervisor and the trainee, we have rarely achieved this target to date. Supervisor understanding about the 2016 TCS and how to manage ER in particular is limited and the GoSW is undertaking a range of departmental teaching sessions to improve this.

At a regional level, it appears that the NHCT F1 have submitted more ER than F1 in other trusts. However, the validity of this metric is difficult to establish as this may reflect a more open culture or a true issue with workload. Furthermore, the number of ER submitted depends on the individual thresholds individuals have adopted at which they are prepared to submit an ER. We will continue to share our data regionally and monitor our ER submissions to ensure we aren't a significant outlier.

Gaps:

The GoSW highlighted the impact of gaps on rotas at the board meeting in January. We have now established a baseline population for each of the 33 rotas where junior doctors are involved. This will enable us to determine if contraction has occurred to cover the service which may have an adverse impact on training. National and local recruitment is currently underway for most specialties and more details will be available for the next quarterly GoSW report to the board. It is worth recognising that several specialties are reporting low fill rates for the 2017 entrants when compared to previous years. By way of an example, Core Medical Training (which comprises the single largest group of trainees in the trust after the Foundation trainees) has a 60% fill rate after the first recruitment round. It is unlikely that all of the Core Medical Training posts will be filled. This situation will be mirrored (but hopefully less severe) in many other areas. The GoSW will provide hard data regarding fill rates in the next report to the board.

The trust has a gap management group that is actively looking at alternative strategies for filling vacancies including trust grade posts and Foundation Year 3 posts. In 2016-17 this strategy proved successful and 14 FY2 trainees had their contracts extended as FY3 for a year. There are concerns that we may not be as fortunate in 2017-18.

Locum Activity:

NHS Employers has suggested that the GoSW provides the Trust Board with a quarterly update on agency and internal locum activity by grade and department. Collating this information is a significant undertaking and we have initiated the process with help from the payroll and finance departments. At present, the information is held in a number of formats and it will take us time to digest the raw data and present this in a useful manner. The GoSW is aiming to provide the board with useful information within 6 months.

At present we can provide some information regarding agency locum activity. In the first 11 months of the 2016-17 financial year, the agency spend on junior doctors was £1,427,700. Although approximately 50% of this relates to MECCBU, a more detailed breakdown is available in the following table:

Business Unit	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Overall
CHILD HEALTH	11,761	17,644	5,511	11,945	13,730	13,362	11,420	1,087	12,731	4,407	15,740	
CLINICAL SUPPORT	9,303	11,309	13,668	11,850	6,417	16,564	10,616	16,623	15,153	12,891	6,708	
COMMUNITY SERVICES	0	0	0	0	0	0	0	0	0	1,256	0	
MEDICINE	107,050	127,023	117,057	111,906	85,585	93,835	65,582	38,237	59,691	58,404	46,884	
SURGERY	573	7,495	13,545	16,259	19,094	15,193	16,306	12,218	12,100	5,901	5,376	
WOMENS SERVICES	20,091	17,819	18,555	8,438	3,408	1,077	3,390	8,509	15,609	14,480	29,312	
Total	148,779	181,291	168,336	160,397	128,234	140,032	107,315	76,673	115,284	97,338	104,020	1,427,700

Collating information about additional work undertaken by trainees employed by NHCT or the LET is proving to be a little less easy as this is held and processed in different places and manners. At this stage the only pertinent information that is available is that a range of rates are being paid across business units for trainees of the same seniority:

Grade	Hourly rate (shifts to end February 2017)	2016 TCS Daytime National Rate from 01/04/17	2016 TCS Nighttime National Rate from 01/04/17
F1	£15.42 - £20.56	£15.58	£21.34
F2	No information	£18.03	£24.70
ST 1-2	£30.06 - £50	£21.34	£29.22
≥ ST3	£40 - £100	£27.04	£37.04

Junior Doctor Forum:

One of the other facets of the 2016 TCS is the Junior Doctor Forum (JDF). The JDF is the body where the GoSW, DME, chair of the Local Negotiating Committee (LNC) and HR representative meet trainee representatives who have volunteered to monitor the delivery of the 2016 in the trust. At NHCT, our JDF has 2 members at F1 level, 2 members at F2 level, 2 core level trainees and 2 higher level trainees from across the business units. The meeting is quorate if 3 or more trainees are present in addition to the other members. We have had 2 JDF meetings since the inception of the contract and these will be held every quarter. In the event any fines are raised via the ER process, the JDF will be responsible for allocating how these should be spent. The members of the JDF are also responsible for performance managing the GoSW.

Systems and Support:

To facilitate the introduction of the 2016 TCS, NHCT have employed a WTE Safe Working Administrator (SWA). This individual is responsible for assisting the GoSW in implementing the 2016 TCS and in managing the administrative elements of the ER that arise. They are also responsible for determining if trainees are able to undertake additional work based on the hours and rest limits in place and their knowledge of the shift patterns trainees are already working. The SWA assists the GoSW in trying to ensure that the ER are dealt with by supervisors in a timely fashion and facilitates access to the ER system for trainees and supervisors. The SWA and the GoSW meet weekly and the GoSW and the DME meet 3 times a month on average.

At present NHCT are using the ER system provided by Skills for Health. This is a rudimentary online system which does not allow errors to be corrected or any analysis of the ER to detect patterns from individuals

and departments, so we are collating this information manually. In the future we may move to using the Allocate ER system.

Nikhil Premchand, Guardian of Safe Working; 26 April 2017.