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
- 16 ER submitted by 7 individuals between April until 11 July 2017 – 14 hours and rest, 2 Education
    - In comparison, 48 ER submitted by 12 individuals between December and April
        - 41 related to hours and rest, 7 related to education, all from MECCBU
- 23 outstanding ER had to be closed off by the GoSW in June due to supervisor inaction
- Some loss of confidence in the ER process by the trainees due to these delays
- No fines applied to the trust so far
- Gaps in A&E and paediatrics from August 2017 will be problematic and probable significant gaps in medicine from December 2017 and April 2018, however recruitment efforts ongoing
- Ongoing work with finance, principal locum agency and payroll to clarify locum spend, rates and venues with the intention of producing a summary for the October Board Report
- If the ER system is migrating to the preferred Allocate platform, this ought to be prioritised and take place before the junior doctors rotate on 2 August 2017 to reduce confusion for both trainees and supervisors

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 (≥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 of72 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:

Since the last report in April there have been 16 ER from 7 trainees. Again, the majority of these have come from MECCBU with the vast majority (14) for hours and rest with 2 for educational issues due to missed teaching sessions. All of the hours and rest ER where discussion has taken place with the supervisor have been agreed and resolution has been with a combination of ToIL and payment where ToIL hasn't been possible. The hours and rest ER relate to pressure of work and trainees having to stay late to complete the workload, especially if colleagues have been on planned or unplanned leave.

There were 23 ER for 7 trainees that hadn't been signed off by the ES or CS within 3 months of the exception arising. The supervisors in question had been reminded on at least 3 occasions to undertake this process (which takes between 5-10 minutes). Consequently, trainees were losing confidence in the ER process in the trust, so following discussion with the MECCBU management team, these ER were closed off by the GoSW with payment for the additional hours worked as ToIL was no longer an option (as the ER had arisen in a previous placement). This action was taken as a one-off to prevent further loss of confidence in our implementation of the 2016 TCS and this will not be possible with an increased number of trainees on the 2016 TCS from August.

A weekly ER summary report is produced for the departments and BU with open ER and the distribution list has been widened to include the General Managers responsible for the area in question to hopefully reduce the delays in ER closure. Supervisors receive a detailed email outlining what action they need to

take every time an ER is submitted for their trainees and this is then followed up with repeat emails every 3-4 days.

Further supervisor education has taken place at both a departmental level and at trust education department organised training and we will continue to monitor response times for the submitted ER. On a positive note, the first ER submitted from the ESECBU was assessed, discussed and resolved within 24 hours which is commendable.

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. Nikhil Premchand has now been elected to the role of regional GoSW representative for the NE.

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 has now taken place across specialties and two areas will be particularly hard hit from August 2017. In paediatrics there will be 3 vacant posts of 7 posts at core level in August. This relates in part to the fact that their core trainee usually start work in September but is compounded by a significant number of gaps in the GP Vocational Training Scheme (VTS). The gaps in GP VTS are also having a significant impact on A&E with 6 of 10 posts remaining unfilled. Although there were a number of gaps predicted at an F2 and core level in medicine, these have been mitigated by the recruitment of 4 stand alone F2 trainees and 8 current F2 trainees staying on in the trust for an F3 period of 8-12 months. At present there may be significant gaps in medicine beyond December and the GoSW will update the board in October.

The A&E department have presently managed to fill the gaps in the rotas in August with locum cover, however the period beyond the autumn (when A&E is always significantly busier) remains a major concern. A working group is exploring both the short term and long term solutions for this recurring and increasing problem.

The trust gap management group will continue to sit year round now to look at other solutions to gaps in medical staff rotas.

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. We are now receiving regular information from payroll, finance and the main agency contracted by the trust and will collate and analyse this for the next board report in October. At first glance, our sub-consultant grade locum spend remains significant with regular breaches of the NHSI hourly pay rate cap. The main areas incurring the locum spend are A&E and obstetrics and gynaecology (due to gaps) with pathology relying on a large number of locum staff to support the clinical service. Given the current situation with gaps in A&E, the need for locum medical staff is unlikely to reduce in the foreseeable future.

At this stage it remains the case 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 Nightime 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 3 JDF meetings since the inception of the contract and these will he 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.

At the most recent JDF meeting on 5 July 2017, the trainees raised concerns that the process of having to have an initial conversation with the consultant of shift (if they felt they would need to stay beyond their scheduled shift finish time leading to the need to submit an ER) coupled with slow response times to the ER had lead to trainees feeling reluctant to submit ER. This has culminated in a marked reduction in ER numbers in the current placement in comparison to the first placement from December.

The GoSW has since reinforced that the decision to submit an ER is entirely up to the trainee and that the discussion with the supervising consultant is only to ensure that the work could not be handed on or deferred until the next day. The trainees are aware that they can submit an ER at any stage if they feel an exception has arisen and that if there is disagreement at the first stage of the discussion process, then the GoSW is in place to adjudicate that exception.

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 time a month on average.

In line with most other trusts in the NE, the NHCT GoSW is paid 2 PA for the role. Although this was to be reviewed in August with the intention of a reduction to 1 PA, given the ongoing workload the time allocation will remain at 2 PA with a further review in the autumn.

Information about the 2016 TCS is available on an intranet site that is maintained by the GoSW and following trainee feedback, we have recently made several key documents and policies available on the internet via a Google Docs site.

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. Although there were initially plans to move to using the Allocate ER system that is linked to the Health Roster platform, this is on hold. The GoSW would strongly encourage that if we are going to move to Allocate ER system that this migration takes place in time for the August changeover, as migrating to a different system at the same time as a trebling of the numbers of trainees working under the 2016 TCS is a recipe for disaster. If this occurs, neither the trainees nor the supervisors will understand how they are meant to submit and respond to ER and confidence in our processes will diminish again.

Nikhil Premchand, Guardian of Safe Working; 12 July 2017.