

**Junior doctors**  
The new 2016 contract



## 2016 TCS: An opportunity for making real change

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## Why did we need change?

All parties (BMA, DH, NHS) agreed that the current (New Deal) contract was no longer fit for purpose:

- **safety:** does not support safe working practices
- **training:** does not support the educational and training needs of doctors (Temple report)
- **pay:** has perverse incentives that do not recognise or effectively reward hours being worked or the intensity of work being done.

A new contract needed to be introduced that was safe, fair and effective for both doctors and employers.

## Opportunities

- Work schedules, *for the first time*, set out express contractual commitments to training, as well as service commitments.
- Exception reports allow trainees, *again for the first time*, to give early notice if they are not getting their educational opportunities or are working unsafe hours.
- The roles of the guardian and DME give a quality assurance to the process from both a learning and a safety perspective.

# Training:

Current 2002 “New Deal” contract	2016 contract
None.	Doctor must receive a generic work schedule for the post showing the parts of the relevant training curriculum that can be achieved in post and identify the intended learning outcomes (amongst other things).
	Work schedules to be designed to meet education and training needs of the doctor, and service needs.
	Work schedule personalised in accordance with the Gold Guide and other relevant documents, according to the doctor’s learning needs and opportunities in the post.
	Educational review discussion contractualised, should take place at least at the start and end of a placement.
	Contractual reporting mechanism (exception reporting) to apply to training, as well as service.
	Facilitation of “catch up” provisions made available by HEE for accelerated learning, access to mentorship, study leave funding and specially developed training, by August 2017.

# Safety

- Current twice-yearly monitoring mechanism is not a good measure of rota safety
- Exception reporting allows real time identification – and resolution - of problems.
- Just as there is an independent champion of education – the DME - it was agreed during negotiations that there should be an independent person responsible for championing safe working hours

## Exception reporting

- Doctors will raise exception reports where their work schedule does not reflect the reality of what they are doing, **in terms of service or training**.
- The purpose is to ensure a work schedule remains fit for purpose, where informal discussions may have failed to resolve concerns.
- Exception reports give employers real time information to identify patterns and pick up any issues quickly.
- These should be addressed ASAP by the supervisor and may lead to a work schedule review.

## Roles and responsibilities (1)

- Medical staffing / employing department – *agree rota / work pattern as being accurate and fit for purpose*
- Medical staffing – *draw up template for generic work schedule, including rota and pay information*
- Medical education - *insert curriculum mapped educational opportunities into work schedule*
- Employing department – *add in timetable and other workplace information to work schedule*
- Medical staffing – *issue generic work schedule (8 weeks before start date)*

## Roles and responsibilities (2)

- Supervisor and trainee – *personalise work schedule*
- Trainee – *report exceptions where work significantly / regularly varies from that set out in the schedule, with regard to:*
  - a) hours of work (safety)*
  - b) missed educational opportunities*
- Supervisor – *review exception reports and agree remedial action with the trainee (including review of schedule if required)*
- DME – *oversee and quality assure process with regard to educational exceptions*
- Guardian of Safe Working Hours - *oversee and quality assure process with regard to working hours*



## Point to note...

The TCS state that the *educational supervisor* will respond to any exception reports, conduct work schedule reviews and will also have joint responsibility with the doctor for personalising their work schedule.

While accountability remains with the educational supervisor, completing certain tasks can, and often need to be, formally reassigned.

This would normally be to the *clinical supervisor*.

## Why do we need a guardian?

- Current twice-yearly monitoring mechanism is not a good measure of rota safety
- Penalty bandings mean that health and safety issues are unhelpfully conflated with pay, preventing issues from being resolved
- BMA, DH and NHS Employers all agreed a new system was needed – and a system of work scheduling and exception reporting was agreed in 2013/14 negotiations
- Junior doctors concerned that employers would not act on exception reports
- It was agreed that there should be an independent person responsible for championing safe working hours

## The guardian will:

- Be independent of trust management
- Champion safe working hours
- Oversee safety related exception reports and monitor compliance
- Escalate issues for action where not addressed locally
- Require work schedule reviews to be undertaken where necessary
- Intervene to mitigate safety risks
- Intervene where issues are not being resolved satisfactorily
- Provide assurance on safe working and compliance with TCS

## The guardian will not:

- Design rotas
- Manage individual work schedules
- Act as the educational champion
- Review every aspect of doctors' working patterns
- Intervene in every exception
- Agree working patterns or schedules with individual doctors
- Be involved with pay or pay protection, or general HR issues
- Act as “cheerleader” for junior doctors on other issues
- Answer questions which fall outside their remit - though should know where to direct the doctor for further help (e.g. medical staffing or the BMA)

## Distinction between roles

- The guardian is not responsible for education and training, this remains the role of the DME.
- The guardian is not responsible for the line management of junior doctors (unless this was already part of their separate role as a clinical/educational supervisor).
- The guardian role does not replace the role of educational supervisors.
- The guardian of safe working hours is not the spokesperson for junior doctors' other concerns.

## Quarterly reporting

The Board will receive a quarterly report from the guardian, which will include:

- Aggregated data on exception reports (including outcomes), broken down by categories such as specialty, department and grade
- Details of fines levied
- Data on rota gaps
- Data on locum usage
- Other data deemed to be relevant by the guardian
- A qualitative narrative highlighting areas of good practice and / or persistent concern.

Question: should the DME do a similar report on education and training?

## Other reporting processes

- The guardian may identify issues which cannot be resolved at a local level, and should inform the Board of such issues as they arise.
- The Board will produce a consolidated annual report on rota gaps and the plan for improvement, and is responsible for providing this to external national bodies.

## The junior doctor forum

- The guardian will convene the junior doctors' forum on a regular basis to advise on safe working hours issues.
- The group will include relevant junior doctor representatives from the LNC (or equivalent), as well as the chair of the LNC, and relevant educational and HR colleagues as agreed with the group.
- Where your role covers small specialties or those with specific employment requirements, representatives of those groups should also be included.
- The group will scrutinise the distribution of fines.



## Resources available

Go to [www.nhsemployers.org/juniordoctors](http://www.nhsemployers.org/juniordoctors) and click on “information for guardians of safe working hours”, you will find:

- The guardian job description
- A checklist of things to do
- Guidance and templates for the guardian quarterly and annual reports
- Protocol and suggested terms of reference for a regional guardian network
- Guidance on the junior doctors forum
- Guidance on checking your exception reporting dashboard, plus guidance on managing exception reports and exception report flow charts for safety and training issues
- Factsheet on the 2016 contract safe working rota rules
- Relevant Schedules of the terms and conditions for guardians
- FAQs
- Recordings of previous webinars

There will be a second national conference for Guardians on 14 March 2017. Look out for details at [www.nhsemployers.org/events](http://www.nhsemployers.org/events).

## Online forum for networking

- [www.networks.nhs.uk/nhs-networks/guardians-of-safe-working-hours-forum](http://www.networks.nhs.uk/nhs-networks/guardians-of-safe-working-hours-forum)
- Currently 204 Guardians registered on the forum.
- Regional discussion forums plus discussions in specialist areas such as mental health.
- If you have not used NHS Networks before, register to get a username and password, and then apply to join the network. Someone from NHS Employers will approve you as a member after checking that you are in a Guardian role.

# National guardian conference:

14 March

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# Questions

# Thank you

Contact us: [GuardianSWH@nhsemployers.org](mailto:GuardianSWH@nhsemployers.org)

Website: [www.nhsemployers.org/juniordoctors](http://www.nhsemployers.org/juniordoctors)

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