

Junior Doctors Contract - Arrangements and Implementation

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Trust Board paper M

Executive Summary

This report outlines the scope of the changes and implications within UHL for the implementation of the National Junior Doctors Contract, which is for implementation with effect from August 2016. It also identifies the required project arrangements and resources to implement the necessary contract changes.

Context

Nationally, the Junior Doctors contract has been in negotiation through NHS Employers. The Government has 'imposed' the new contract to take effect from August 2016, although the BMA have objected to this imposition and it is still the subject of on-going industrial action. The Trust is required to make appropriate arrangements for the implementation of the new contract for Junior Doctors.

Key contract changes fall into 3 key areas which are Pay, Safety i.e. hours juniors are required to work and Training which includes;

- Changes to pay, including how weekend pay is calculated. Pay is linked directly to the work done and level of training.
- Changes to hours and rest requirements.
- Guardian of Safe Working to be appointed.
- Routine exception reports to replace twice yearly monitoring.
- Junior doctors will receive an individual work schedule linked to the Educational curriculum.
- Financial penalty levied on employers for breaches of the average 48 hour or weekly 72 hour limits.

Within UHL there are over 900 junior doctors and 121 full rota templates (plus 70 -85 individual rota templates) which will be impacted by the changes.

Questions

1. What are the implications of the August 2016 Junior Doctors Contract negotiations?
2. What are the arrangements required to implementation the contract requirements?

Conclusion

The National implementation of the Junior Doctors contract represents a significant change to terms and conditions of employment for junior medical staff and it is necessary to ensure these implications are properly assessed and that a project structure is established with timescales to enable implementation of the necessary contract provisions within UHL.

Input Sought

The Trust Board is requested to:

- a) Note that a Task and Finish Group is established to oversee and manage the implementation of the changes.
- b) Endorse the appointment of a Guardian of Safe Working at UHL, once further details are known.
- c) Agree the implementation of changes proposed (see 3.3) for August 2016.
- d) Approve the costs of the additional resources required for the implementation of this project.

For Reference

1. The following **objectives** were considered when preparing this report:

Safe, high quality, patient centred healthcare	[Yes]
Effective, integrated emergency care	[Not applicable]
Consistently meeting national access standards	[Not applicable]
Integrated care in partnership with others	[Not applicable]
Enhanced delivery in research, innovation & ed'	[Not applicable]
A caring, professional, engaged workforce	[Yes]
Clinically sustainable services with excellent facilities	[Yes]
Financially sustainable NHS organisation	[Not applicable]
Enabled by excellent IM&T	[Not applicable]

2. This matter relates to the following **governance** initiatives:

Organisational Risk Register	[Not applicable]
Board Assurance Framework	[Not applicable]

3. Related **Patient and Public Involvement** actions taken, or to be taken: [none]

4. Results of any **Equality Impact Assessment**, relating to this matter: [*****]

5. Scheduled date for the **next paper** on this topic: [N/A]

6. Executive Summaries should not exceed **1page**. [2 pages]

Papers should not exceed **4 pages**. [exceeds]

Junior Doctors Contract Arrangements and Implementation

1. Introduction

Nationally, the Junior Doctors contract has been in negotiation through NHS Employers. At the current time the government has 'imposed' the new contract to take effect from August 2016, although the BMA have objected to this imposition. The Trust is required to make appropriate arrangements for implementation of the new contract for Junior Doctors. This report outlines the scope of the changes and implications with UHL. It also identifies the project arrangements and resources required to implement the contract changes.

2 Background

1.1 From 3rd August 2016 new contractual arrangements will be introduced for junior doctors in training, replacing the existing New Deal (2000) and the Medical and Dental Staff Terms and Conditions of Service (2002). The implementation of this contract will be phased over a period of 12 months.

1.2 The terms and conditions of the 2016 contract are being finalised and are subject to review and amendment by the Secretary of State. It is anticipated that the new Terms and Conditions of Service (TCS) will be published by the end of March.

1.3 Within UHL there are over 900 Junior Doctors who will be affected by the contract changes.

1.4 In addition to changes to pay, (Appendix 1) working hours and rest requirements (Appendix 2) other key elements of the new contract are:

- Guardian of Safe Working to be appointed
- Routine exception reports to replace twice yearly monitoring
- Junior doctors will receive an individual work schedule linked to the Educational curriculum
- Pay is linked directly to the work done and level of training
- Financial penalty levied on employers for breaches of the average 48 hour or weekly 72 hour limits.

1.4 Before issuing contracts of employment under the proposed new TCS, UHL must:

1. Assess the working pattern against the new rules and make any necessary adjustments

2. Prepare a work schedule for each individual post
3. Assess the pay associated with the work schedule
4. Issue the offer letter together with the work schedule

2. Impact at UHL

At UHL there are 121 full time rota templates and a further 70 to 85 individual rota templates in operation at any one time. An audit of the full time rota templates has shown that that 70% are non-compliant with the new regulations and will therefore need to be changed.

3. Implementation of the New Contract

3.1 Project Management & Governance

It is proposed that the implementation of this contract will be overseen by a Task and Finish Steering Group Chaired by Catherine Free, Deputy Medical Director. Please refer to the draft terms of reference for the Group provided in Appendix 3.

- 3.1.2 This Steering Group will need to be supported by individual CMG Medical Workforce Groups, who will work closely with trainees and Medical HR to produce rota templates and schedules to fit with training requirements and service needs.

3.2 Appointment of a Guardian of Safe Working

- 3.2.1 To ensure the Trust complies with the new regulations there is a requirement to appoint an independent Guardian of Safe Working, who is a senior medical professional, either at Trust or Regional level. The role of the Guardian is to act as the champion of safe working for doctors and patients, escalating problems to the Executive Team and providing re-assurances to the Board.

- 3.2.2 NHS Employers will be publishing a job description and person specification for the role of the Guardian of Safe Working in early April 2016. NHS Employers have organised a conference event for Guardians on 26th July 2016 therefore UHL will need to ensure the appointment of the Guardian role is made by this date.

3.3 Changes to Rota Templates

- 3.3.1 NHS Employers have proposed a 12 month phased implementation plan commencing August 2016. However, the dates proposed by NHS Employers do not fit with the junior doctors' changeover dates for this region and therefore it is necessary for the Trust to propose some regional modification to these dates.

3.3.2 As we are unable to change the terms of employment for doctors already contracted by the Trust, we will need to continue to contract doctors on the current TCS and will need to follow the agreed arrangements in place for changing junior doctor rota templates.

3.3.3 In order to streamline the transition for junior doctors the changes to the rota templates and contract of employment at the Trust will be made in line with the junior doctor's changeover dates as outlined in the table below.

Rota(s)	Change Rota template	Issue Schedule of Work	Issue the new Contract of Employment	Proposed changeover date by NHS Employers	Proposed Change at UHL and reason
All F1 rotas	Yes	Yes	Yes	August 2016	August 2016
F2 ST1/2 Paediatrics (Core, higher and all sub-specialties)	Yes	For F2 and ST1	For F2 and ST1	September 2016	August 2016, in line with the changeover
F2 Ct1/2 All Surgical specialities	Yes	For F2 and CT1 level doctors	For F2 and CT1 level doctors	October 2016	August 2016, in line with the changeover
ST3+ All Surgical specialities	Yes	All new starters to the Trust	All new starters to the Trust	October 2016	In line with the changeover dates: (August for Ophthalmology, Plastics and ENT) and (Sept for Oral and Max) and October for Urology

3.3.4 For posts commencing in August 2016 the indicative timeline provided by NHS Employers for doctors to be offered the new contract is:

- 22nd April 2016 – reworked rota templates
- 24th May 2016 all work schedules completed
- 31st May 2016 pay assessed for all work schedules
- 8th June 2016 deadline for issuing offers and work schedules
- 3rd August 2016 doctor commences in post

4. Risk to the Organisation

4.1 The imposition of the new contract remains politically sensitive and junior doctor industrial action is continuing with dates planned for 6-8 April and 26-28 April 2016 (including a full walk out between 8am and 5pm on 26th and 27th April but with overnight emergency cover).

- 4.2 The Trust is currently experiencing a greater frequency of junior doctor rotas being monitored as non-compliant for working time. This includes doctors who are working on non-resident on-call rotas indicating that they are no longer achieving the required rest and this needs to be addressed. If the rest requirements are not achieved we may be required to change work patterns to resident rota templates, which would require additional resources.

5. Other Factors

- 5.1 The Trust also employs Trust Grade doctors on similar T&Cs to doctors in training. As the Trust is extending Trust Grade appointments to 12 month contracts it will be necessary to change all new offers of employment to state that their Terms of Employment will change in line with the new T&Cs over the next 12 months.

6. Project Implementation Costs

- 6.1 In order to implement the new contract additional project support resources will be required from 1st April 2016 to 31st August 2017. This additional support will be required to link in with services, produce compliant rota templates, develop work schedules and provide guidance and advice. The Medical HR Manager (8a F/T role) will need to be reassigned to deliver the project for a minimum 6 month period and backfill for this role will be required. Additional resource is estimated as 1 x WTE Band 5 post to co-ordinate and appropriately input into ensuring rota compliance under new contract terms. A business case for funding will be submitted to the Revenue and Investment Committee.

7. Financial Impact

- 7.1 Nationally, it has been stated that the new contract will be cost neutral with some additional transitional costs which will be met from the global NHS pay budget. This is yet to be confirmed.
- 7.2 The new contract will be imposed for Doctors moving into rotational posts but cannot be imposed on to doctors who are already in post. Therefore for a period of time we will need to continue paying and monitoring junior doctors in line with the old contract. There will be additional financial costs and risks if rotas are monitored as non-compliant for working hours, i.e. increased pay bill and recruitment costs and risk of fines.
- 7.3 There is a national commitment that Doctors will not be paid less than they were earning on 31st October 2015 and as the individual application of the new contracts is assessed, it is expected that there will be some pay protection will be required with associated costs.

- 7.4 Additional cost of appointing a Guardian of Safe Working – yet to be determined and dependant on whether this is a new role as opposed to additional responsibilities to an existing role.
- 7.5 Fixed term project implementation costs – Business Case to Revenue and Investment Committee
- 7.6 The full financial impact of implementing the contract is yet to be fully understood and details will need to be confirmed.

8. Recommendations

The Trust Board is requested to:

- e) Note that a Task and Finish Group is established to oversee and manage the implementation of the changes sponsored by the Medical Director and Director of Workforce and OD.
- f) Endorse the appointment of a Guardian of Safe Working at UHL, once further details are known.
- g) Agree the implementation of changes proposed (see 3.3) for August 2016.
- h) Note the financial pressures and risks as outlined.

Appendices

Appendix 1 – Summary Pay Details

Appendix 2 - Safety - Hours and Rest requirements.

Appendix 3 - Draft TOR for Task and Finish Steering Group

Junior doctors' 2016 contract

The proposed new contract, although still subject to amendment, will address the current contract's lack of sufficient links between pay and responsibility and will deliver a model of pay that is fairer and more stable and transparent.

The new contract is fairer on PAY

Current contract	November offer	Final contract
Basic pay linked to length of service rather than level of responsibility	Basic pay on a 6-nodal point structure (F1, F2, ST1-2, ST3-4, ST5-6, ST7-8)	Basic pay on a 5-nodal point structure (F1, F2, ST1-2, ST3-7, ST8) agreed with the BMA with indicative values in Appendix A of the summary of the proposed new 2016 contract (final values will be in Annex A of the TCS)
Pay progression not linked to progress through training / employment	Pay progression linked to responsibility	Pay linked directly to work done and changes in level of responsibility
	Pay structure that might disincentivise academia or breaks from training	Flatter pay structure agreed with BMA to protect the interests of doctors taking academic route and/or breaks from training for other reasons
Inflexible banding system that does not distinguish between unsocial and social hours worked	<ul style="list-style-type: none"> • 50% premium for night work (10pm–7am) • 33% premium for Saturday evening (7pm–10pm) and Sunday (7am–10pm) 	<ul style="list-style-type: none"> • Every night 9pm–7am: 50 per cent premium • Sunday 7am–9pm and Saturday 5pm–9pm: 30 per cent premium • Saturday 7am–5pm, if any shift starting on a Saturday is worked 1:4 or more frequently: 30 per cent premium
	Pay premium for clinical academics or trainees holding a training number who complete higher degrees, to offset impact on pay progression	Pay premium for clinical academics or trainees holding a training number who complete higher degrees, to incentivise academic research

	Time off in lieu for additional work	Additional work paid at prevailing rate unless a breach of WTR 48-hour average working hours or contractual 72-hour weekly limit, in which case time and a half time would be paid
	Transitional pay protection until July 2019 for doctors moving to the new contract directly from employment on the current TCS in an existing training post	Transitional pay protection until July 2019 for doctors moving to the new contract directly from employment on the current TCS in an existing training post or from a recognised period of time out of training (OOP) / maternity leave / long-term sick leave
		Nationally agreed locum rates to be included in Annex A of the proposed terms and conditions of service for doctors carrying out additional work on a locum bank

Appendix A – Indicative pay values

Indicative nodal pay values

November offer		Final contract		
Level of responsibility	Indicative basic pay value	Level of responsibility	Basic pay value	
F1	£25,500	F1	£27,000	
F2	£31,600	F2	£30,000	
CT1 / ST1	£37,400	CT1 / ST1	£37,000	
CT2 / ST2		CT2 / ST2		
CT3 / ST3	£42,500	CT3 / ST3	£48,000	
ST4		ST4		
ST5		£48,400		ST5
ST6				ST6
ST7	£55,000	ST7	£52,000	
ST8		ST8		

Indicative flexible pay premia values

November offer		Final contract	
Academia	£3,125	Academia	£4,000
Emergency medicine training programmes at ST4 and above	£1,500	Emergency medicine training programmes at ST4 and above	£1,500
General practice	£8,200	General practice	£8,200
		Oral and Maxillofacial Surgery	£1,500
Psychiatry training programmes at ST1 and above	£1,500	Psychiatry training programmes at ST1 and above	£1,500

Note

The terms and conditions of the 2016 contract are being finalised and are subject to review and amendment by the Secretary of State. Advice within this other documents regarding likely content of the terms and conditions should be considered with this in mind.

For more information go to:
www.nhsemployers.org/your-workforce/need-to-know/junior-doctors-contract

Junior doctors' 2016 contract

The proposed new contract provides a comprehensive package to address concerns raised by junior doctors and proposes additional safeguards and restrictions, beyond those in the Working Time Regulations, on the hours that doctors are required to work.

The new contract is SAFER

Current contract	November offer	Proposed final offer
		Guardian of safe working appointed jointly with junior doctors
		Appraisal of guardian by board level director based on multisource feedback and agreed KPIs
		Safe working hours enshrined as a KPI for performance management framework for all managers
Twice-yearly hours monitoring exercises	Exception reports to replace hours monitoring	Exception reports to replace hours monitoring
Departmental rota	Individual work scheduling	Individual work scheduling
	Work schedule reviews on request	Work schedules reviews on request and when required by the guardian
Maximum average 56-hour working week	Maximum average 48-hour working week	Maximum average 48-hour working week
Opt out capped at maximum average of 56 working hours a week	Opt out capped at maximum average of 56 working hours a week	Opt out capped at maximum average of 56 working hours a week
Maximum 91 hours work in any 7 days	Maximum 72 hours work in any 7 days	Maximum 72 hours work in any 7 days
Maximum shift length of 14 hours	Maximum shift length of 13 hours	Maximum shift length of 13 hours
Maximum of 7 consecutive long shifts	Maximum of 5 consecutive long shifts	Maximum of 5 consecutive long shifts
Minimum 11 hours rest after final long shift	Minimum 11 hours rest after final long shift	Minimum 48 hours rest after 5 consecutive long shifts

Junior doctors

The new 2016 contract



Maximum of 7 consecutive night shifts	Maximum of 4 consecutive night shifts	Maximum of 4 consecutive night shifts
Minimum 11 hours rest after final night shift	Minimum 11 hours rest after final night shift	Minimum 48 hours rest after 3 or 4 consecutive night shifts
Maximum of 12 consecutive long, late evening (twilight into night) shifts	Maximum of 5 consecutive long, late evening (twilight into night) shifts	Maximum of 4 consecutive long late evening (twilight into night) shifts
Minimum 11 hours rest after final long, late evening (twilight into night) shift	Minimum 11 hours rest after final long, late evening (twilight into night) shift	Minimum 48 hours rest after 4 consecutive long, late evening (twilight into night) shifts
Maximum 12 consecutive shifts	Maximum 12 consecutive shifts	Maximum 8 consecutive shifts
48 hours rest after 12 consecutive shifts	48 hours rest after 12 consecutive shifts	48 hours rest after 8 consecutive shifts
Rigid on-call rules with limited flexibility	More flexible on-call arrangements linked to intensity of work	Limits on on-call working: <ul style="list-style-type: none"> No more than 3 rostered on-calls in 7 days except by agreement Guaranteed rest arrangements where overnight rest is disturbed
Rigid paid rest break requirements	Paid 30 minute rest breaks at intervals in line with WTR	Paid rest breaks: 30 minutes if shift exceeds 5 hours; 2 x 30 minute if shift exceeds 9 hours, taken flexibly across the shift
		Best practice guidance on rostering
		Financial penalty levied on employer for breaches of WTR 48-hour average working hours or contractual 72-hour weekly limit. Doctor to be paid 1.5 x the prevailing rate, financial penalty at 2.5 x the rate vested with guardian
		No doctor rostered to work more frequently than 1:2 weekends
		No doctor to be rostered on consecutive weekends without agreement

Note

The terms and conditions of the 2016 contract are being finalised and are subject to review and amendment by the Secretary of State. Advice within this other documents regarding likely content of the terms and conditions should be considered with this in mind.

For more information go to:

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UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

Implementing the Junior Doctors' Contract Task and Finish Group

Terms of Reference – DRAFT

Purpose

The purpose of this group is to oversee the implementation the new Junior Doctors' Contract being introduced from August 2016.

Reporting

This Task and Finish Group will provide update reports and recommendations to the following bodies:

- Executive Team
- Local Education and Training Board
- Executive Workforce Board
- Trust Medical Workforce Group

Agreed implementation plan from this group will be shared with CMG Workforce Groups to ensure the contract is implemented in line with the agreed timeframe.

Key Objectives

The key objectives of this Group will be to:

- Develop a robust action plan to manage all aspects of implementing the contract (e.g. rotas, pay, contracts of employment and rostering)
- Agree the timeframe for implementation at UHL
- Agree the requirements of and be involved in the appointment of the Guardian of Safe Working
- Agree the process for implementing new rota templates

Group Membership

- Catherine Free, Deputy Medical Director
- Nominated Representation from Directorate of Medical Education
- Salena Bains, Chair of the Doctors in Training Committee or nominated representative
- Representative from each CMG (Medical Lead or General Manager level)
- Joanne Tyler-Fantom, Deputy Director of Workforce and OD
- Vidya Patel, Medical Human Resources Manager
- Finance Representative
- Pete Rogers, Payroll and Contracts Manager
- Electronic Rostering and Locum Bookers Representative

Meetings & Procedures

- Meetings will be held monthly
- Apologies should be sent by any members unable to attend
- Requests for agenda items will be emailed two weeks prior to the meeting, with a one week deadline for responses. The agenda shall be circulated one week prior to the meeting
- Notes of the meetings shall be circulated within two weeks of the meeting and presented at each subsequent meeting for approval as an accurate record of the meeting. Secretariat to the meetings will be provided by Medical HR.