**Guidance for GP practices on the 2016 junior doctors’ contract**

**Background**

In August 2016, new terms and conditions of service for junior doctors were introduced and in October 2016 the first group of trainees were moved onto this contract. The 2016 contract was rejected by the BMA and the Association remains opposed to the imposition of this contract.

Whilst GP practices that employ trainees directly are not obligated to offer these terms and conditions, **there are non-negotiable contractual requirements that practices need to have in place before offering the new contract to trainees if they choose to do so.** These terms and conditions will apply to both GP trainees employed directly by the practice, or under a lead employer arrangement, and so it is important that practices understand the contractual requirements that they must adhere to. Below is an overview of the key processes introduced as part of the 2016 contract.

**Work scheduling**

GP trainees employed under the 2016 terms and conditions of service will be issued with a generic work schedule prior to starting their placement. This will set out the working hours and the training opportunities in their placement. This generic work schedule is then personalised, and the personalised work schedule is developed jointly by the trainee and the clinical supervisor, who is also responsible for reviewing the work schedule and ensuring that it remains fit for purpose.

The trainer (clinical supervisor) should arrange an educational meeting to agree a personalised work schedule with the trainee either before or at the start of their placement. This should be developed according to the trainee’s learning needs and the opportunities available within the post. The meeting will take into account the trainee’s personal circumstances, including any specific training needs that they may have.

**Exception reporting**

Exception reporting is a feature of the 2016 contract which allows junior doctors to immediately report instances where their actual work and training opportunities vary from their work schedule. The employer must provide some form of electronic system for trainees to submit exception reports. The report is sent to educational supervisors (in GP practice placements these will be approved clinical supervisors) and copied to guardians of safe working (for work issues) or the Director of Medical Education (for training issues).

Clinical supervisors will review exception reports and then discuss them with the GP trainee to agree what action is necessary to address the issue. This could involve revising their work schedule, and approving claims for additional pay or time off in lieu. If a solution agreeable to both parties cannot be found, this needs to be raised with the guardian of safe working.

This extension of the clinical supervisor’s role will also have implications for their workload. This is additional to the trainer’s grant and may need to be varied locally, and the non-educational element of the changes will be a new skill for many. Effective exception reporting should result in timely adjustments to trainees’ work schedules, and, where appropriate, allow trainees to receive additional pay or time off in lieu.

Clinical supervisors responsible for trainees on the 2016 contract, should read this [guidance on exception reporting in full](https://www.bma.org.uk/advice/employment/contracts/junior-doctor-contract-2016/exception-reporting/exception-reporting-guidance-for-senior-doctors) and familiarize themselves with the process.

**Work schedule review**

If sessions overrun frequently, it may be necessary to undertake a work schedule review. This is a conversation between the trainer and the trainee about whether the work schedule is fit for purpose, which may prompt one or more of the following outcomes:

* No change to the work schedule is required, but compensation in the form of pay or time off in lieu is required for one or more individual breaches of the work schedule.
* Prospective changes are made to the work schedule so that going forward from the review, the trainee’s hours and/or training commitments are changed.
* Organisational changes are needed, such as a review of the clinics and administrative tasks. If such organisational changes are needed, this may take a while to happen. In the meantime, temporary alternative arrangements should be made where necessary.

If a trainee is unhappy with the outcome of the work schedule review, they can escalate this by requesting a level 2 work schedule review within 14 days of being notified of the outcome of the first review. If the trainee is still unhappy with the outcome of the level 2 review, they can request a final stage work review, which will involve a formal hearing with a panel that must include a representative from the BMA or other trade union representative.

For more on work schedule reviews and detail surrounding each stage of the escalation process, see [the following guidance.](https://www.bma.org.uk/advice/employment/contracts/junior-doctor-contract-2016/exception-reporting/outcomes)

**Guardian of safe working**

The guardian of safe working hours is a key feature of the 2016 contract and all trainees employed under these terms and conditions of service must have access to the guardian. This is a non-negotiable contractual requirement. If there is a lead employer, then it is their responsibility to appoint a guardian. If the practice employs trainees directly, then it is the practice’s responsibility to appoint a guardian.

Practices that directly employ trainees and who have fewer than 10 GP trainees should:

* Jointly appoint a guardian with a similar employer(s) so that the guardian is responsible for at least 10 trainees; or
* Enter a contract with a neighbouring trust to provide the guardian function for the practice

The guardian is responsible for overseeing compliance with the safeguards outlined in the 2016 terms and conditions of service. The guardian will identify and either resolve or escalate problems, and act as a champion of safe working hours for junior doctors. The guardian provides assurance to the employer or host organisation, that issues of compliance with safe working hours will be addressed, as they arise.

For more on appointing a guardian and what the role involves, please read the [following guidance.](https://www.bma.org.uk/advice/career/applying-for-a-job/guardian-of-safe-working-hours-role)

**FAQs**

**What should a work schedule look like for trainees in GP practice placements?**

Guidance has been produced to support trainees and trainers for managing work scheduling in general practice settings and is available [here](http://www.nhsemployers.org/~/media/Employers/Documents/Need%20to%20know/Guidance%20for%20managing%20work%20scheduling%20in%20general%20practice%20settings.pdf). For trainees who are employed under the 2016 terms and conditions of service, the template generic work schedule can be used as the basis for developing the personalised work schedule.

It may be necessary to change the work schedule during a placement if there are significant changes in the facilities, resources, or services, or if the practice or the trainee decide that the schedule is not fit for purpose.

**What are the new hourly limits under the 2016 contract?**

For a full list of the hourly limits under the new contract, see ‘rota rules at a glance’ available [here](https://www.bma.org.uk/advice/employment/contracts/junior-doctor-contract-2016/rota-design).

**What are the consequences of a trainee breaching the new hourly limits under the 2016 contract?**

If a trainee works hours that result in a breach of the following limits, a penalty fine will be levied:

* The trainee works over 48 hours average per week
* The trainee works over 72 hours in any seven consecutive days
* The minimum rest period of 11 hours between shifts is reduced to less than 8 hours
* The trainee misses more than 25% of breaks across a four week reference period

The guardian will review all exception reports copied to them and levy a fine if any of the above circumstances have been breached, equal to four times the hourly rate. The fines will then be distributed as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Total financial penalty** | **Hourly penalty rate paid to the doctor** | **Hourly penalty rate paid to the guardian** |
| **Additional hours worked attract a basic rate** | The total value of the fine is four times the basic hourly rate  | x1.5 of the basic hourly locum rate  | The remaining money (equalling the total value of the fine minus the rate paid to the doctor)  |
| **Additional hours worked attract an enhanced (night) rate** | The total value of the fine is four times the enhanced hourly rate  | x1.5 of the enhanced hourly locum rate | The remaining money (equalling the total value of the fine minus the rate paid to the doctor)  |

If a trainee works over their rostered hours - for example if they work 9 hours on a day when they are scheduled to work 8 hours, or if their average weekly hours exceed the contracted 40 hours (inclusive of out-of-hours) - but this additional time does not result in one of the aforementioned breaches, they will be compensated for the additional time worked either through payment for the additional time at the applicable hourly rate, or through time off in lieu (TOIL). It is for the supervisor and trainee to jointly agree the method of compensation.

**Will all GP trainees be employed under the 2016 contract as of August 2017?**

No, it is possible that you may have GP trainees working in your practice employed under two different contracts, or only trainees employed under the 2014 COGPED framework contract. As the 2016 terms and conditions of service have not been collectively agreed by the BMA, trainees under lead employer arrangements must consent to being moved onto the new contract and they retain the right to remain under their existing contract until it expires

Practices that employ trainees directly may choose to offer trainees a choice of the 2016 contract or the 2014 COGPED framework contract.

For employment advice, please email support@bma.org.uk.