

# WORK SCHEDULES AND EXCEPTION REPORTING GUIDANCE FOR DOCTORS AND DENTISTS IN TRAINING

From August 2017

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## **1. Introduction**

This guidance sets out the steps to follow in relation to work schedules and exception reporting in accordance with the Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016 (TCS) which came into effect from 3<sup>rd</sup> August 2016. In particular schedule 05.

## **2. Scope**

This document is for use by doctors and dentists in training who are engaged under the 2016 terms and conditions, Educational Supervisors, Guardian of Safe Working (GoSW), Director of Medical Education (DME) and Medical Workforce Team.

## **3. A summary of key roles**

### **3.1 Role of the Guardian**

The Guardian is the champion of safe working hours and is called to action if normal processes have not resolved an issue. The Guardian is copied to all exception reports so they can oversee and escalate issues as appropriate and identify whether further improvement to the doctors working hours are required to ensure that the limits on working hours outlined in the 2016 terms and conditions are met. They are also responsible for the disbursement of any fines generated through the exception reporting process and have reporting responsibilities no less than once per quarter on all work schedule reviews relating to safe working hours to the LNC and the Trust Board. Any concerns relating to the performance of the Guardian should be raised to the Trust Medical Director. These concerns can be escalated to the senior independent director on the Board of Directors where they are not properly addressed or resolved.

### **3.2 Role of the Director of Medical Education (DME)**

The DME will oversee exception reports in relation to training issues to identify whether further improvements to the doctor's training experience are required. The DME has reporting responsibilities annually to the Trust Board on all work schedule reviews relating to education and training.

### **3.3 Role of the Educational Supervisor**

As part of the TCS 2016 Educational Supervisors (or Clinical Supervisors in GP practice placements) will respond to all exception reports, conduct work schedule reviews and will have joint responsibility with the doctor for personalising their work schedule. These duties can be delegated to clinical supervisor if it is more practical for doctors undertaking foundation training. However, the Educational Supervisor is responsible for ensuring this is carried out in the first instance.

### **3.4 Role of the Clinical Supervisor**

The Clinical Supervisor will respond to exception reports raised by a doctor in training who is not working in the same specialism/area to their Educational Supervisor. In these circumstances the Clinical Supervisor will be an 'Actioning Supervisor' and the Educational Supervisor will be an 'Also Notify' Supervisor.

### **3.5 Role of the Medical Workforce Team**

The Medical Workforce Team will provide support and advice to users of this document regarding its application. They are also responsible for arranging the level 3 final appeal meeting, for processing exception payment forms and managing the logins on the DRS system. If you have any queries regarding the processes described in this document please contact the team via email [ekhtr.medicalworkforceteam@nhs.net](mailto:ekhtr.medicalworkforceteam@nhs.net).

## 4 Work schedules

The Trust is required to complete work schedules for doctors in training on two levels, the generic work schedule and personalised work schedule. A work schedule template is provided at Appendix 1.

### 4.1 The generic work schedule sets out:

- hours of work
- working pattern
- the expected service commitments
- parts of the training opportunities/curriculum (mapped to the educational curriculum) with the application for approval of a training post which will be agreed with the postgraduate dean) available during the post or placement.

This is undertaken by the Medical Workforce Team prior to offer of employment and sent to the doctor before they begin in post.

**4.2 The personalised work schedule** is undertaken once a doctor commences in post and based on the generic work schedule which is personalized to include personal objectives that have been agreed between the doctor and his/her Educational Supervisor. The Medical Education Centre is responsible for providing the generic work schedules (which have been provided to them by the Medical Workforce Team) to the Educational Supervisor in a timely manner so this discussion can take place. The objectives will set out the mutual understanding of what the doctor is seeking to achieve over the placement period and how this will contribute to the objectives of the Trust. This area of the work schedule will include the doctor's individual training plan (PDP). This is already the subject of discussion during the educational review/ (foundation programme) portfolio process. Educational Supervisors may print and attached the relevant parts of the portfolio to the generic work schedule or complete the section afresh as appropriate. As a minimum there should be an educational review and work schedule review at the start and finish of each placement with regular reviews to ensure that the workplace experience meets with the anticipated learning opportunities.

Once agreed a copy of the completed both the generic and personal work schedule should be sent by the Educational Supervisor to the Medical Workforce Team via email to [ekhtr.medicalworkforceteam@nhs.net](mailto:ekhtr.medicalworkforceteam@nhs.net).

### 4.3 Work schedule reviews

A work schedule review can consider issues relating to working hours and rest as well as educational issues/service delivery. They should be undertaken in the following circumstances:

- where there has been one or more exception reports
- by request from the doctor or Educational Supervisor or Service Manager
- where there are regular or persistent breaches in safe working hours
- If there are significant changes in the facilities, resources or services to ensure that they remain fit for purpose.

There are three levels to this process which are illustrated in Appendix 2a (for issues relating to training) and b (relating to safety). Once the Educational Supervisor has received an exception report s/he will initially review and discuss the reasons for the submission with the trainee doctor. **This discussion should take place within 7 days of the receipt of the report.** The Educational Supervisor should ascertain if the issue constitutes a pattern or is a one-off event. If it is a one-off event the Educational Supervisor and doctor may reach agreement for a solution at this early stage and be able to close the case.

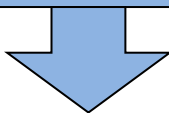
If early resolution is possible then, in the case of a training related issue, confirmation of the outcome should be sent to the doctor and notification of the outcome sent to the DME. In relation to safety/hours at this point it may be agreed that the trainee doctor chose to say late, start early etc. and therefore the case may be closed and notification sent to the doctor and the Guardian. However, if it is the case that payment or TOIL is agreed as appropriate the Educational Supervisor would need to notify the Guardian of this who will assess whether or not a fine is required - see Appendix 3 for a table which indicates when a fine is appropriate. If the Educational Supervisor feels that this issue is not a one off but part of a pattern then a determination may be that a level 1 work schedule review may be appropriate.

### **Level 1**

An informal discussion between the doctors and the Educational Supervisor/line manager in an attempt to resolve this issue quickly. This may lead to one or more of the following outcomes:

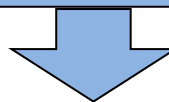
- No change to the work schedule is required
- Prospective documented changes are made to the work schedule
- Compensation of time off in lieu is required
- Organisational changes, for example, timing of handovers or clinics are needed. Where these might take time to facilitate temporary arrangements may be necessary.

The outcome will be communicated in writing and copied to the Guardian and/or DME.



If level 1 fails the doctor may formally request a level 2 work review within 14 days of notification in writing of the decision. This request must set out:

- The areas of disagreement regarding the work schedule
- The outcome that the doctor is seeking

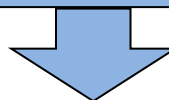


### **Level 2**

A formal meeting to include the Educational Supervisor, the doctor, a service representative and a nominee of the DME (if training issue) or nominee of Guardian (safety). This may lead to one or more of the following outcomes:

- The level 1 outcome is upheld
- Compensation or time off in lieu is required
- No change to the work schedule is required
- Prospective documented changes are made to the work schedule
- Organisational changes, for example, timing of handovers or clinics are needed. Where these might take time to facilitate temporary arrangements may be necessary.

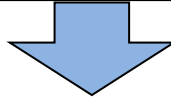
The outcome will be communicated in writing and copied to the Guardian and/or DME.



If level 2 fails the doctor may formally request a final level 3 work review within 14 days of notification in writing of the decision. This request must set out:

- The areas of disagreement regarding the work schedule
- The outcome that the doctor is seeking

The request for an appeal must be sent to the Director of Human Resources. The Medical Workforce Team will be responsible for organizing the appeal meeting.



### Level 3

This is the final level appeals process which is held in accordance with the final stage of the Trust grievance procedure. The appeal meeting will be arranged to take place as soon as reasonably practicable. The doctor will be advised of the arrangement of the appeal meeting however if they are unable to attend because of circumstances beyond their control they should inform the appeal organizer as soon as possible. If the doctor fails to attend without explanation or if it appears that they have not made sufficient attempts to attend, the meeting may take place in their absence.

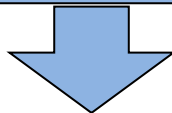
The appeal panel will be chaired by an appropriate manager. The DME or their nominated deputy must be present as a member of the panel. The panel will be supported by an appropriate member of the Human Resources Team. If the doctor is appealing a decision taken by the Guardian of Safe Working the hearing panel will include a representative from the BMA or another recognized Trade Union who will advise the panel chair. This representative must be available within one calendar month. The doctor may be accompanied by a work colleague or a trade union representative at the appeal meeting.

The appeals meeting will progress in line with Appendix 2 of the Trust Grievance procedure.

The panel hearing will result in one or more of the following outcomes:

- The level 2 outcome is upheld
- Compensation or time off in lieu is required
- No change to the work schedule is required
- Prospective documented changes are made to the work schedule
- Organisational changes, for example, timing of handovers or clinics are needed. Where these might take time to facilitate temporary arrangements may be necessary.

The outcome will be communicated in writing within 5 working days (in accordance with the Trust Grievance Procedure) and copied to the Guardian of Safe Working and/or DME



The decision of the level 3 review is final.

## 5. Exception Reports

This process enables doctors in training to raise exception reports where their day to day work varies significantly and/or regularly from the agreed work schedule. Exception reports could relate to:

- Variation in the hours of work and/or rest
- The pattern of work
- Missed educational or learning opportunities
- A lack of support available to the doctor
- Missed personalized work scheduling meetings

The exception report should not be raised if it is the doctor in training's choice to undertake the additional work/change to work - only in the case that the work was unavoidable and not doing so would pose a specific risk to patient safety.

### 5.1. How do you raise an exception report?

Exception reports are generated electronically using the Doctors Rostering System (DRS4)

#### 5.1.1 Doctors in training

When doctors in training first join the Trust, they are issued usernames and passwords prior to commencement by the Medical Workforce Team via the email address supplied. Doctors can access DRS (4) on line by going to [www.drs.realtimeusers.nhs.uk](http://www.drs.realtimeusers.nhs.uk) and then selecting the exception reporting tab and complete on-line document by following the instructions on screen.

The exception report should be completed and sent as soon as possible after the exception takes place – this should be within 14 days of the event or if the event involves making a claim for additional pay the report should be completed and sent within 7 days (as per schedule 2 of TCS 2016 paragraphs 62-68).

Where there is a potential immediate and substantive risk to the safety of patients or the doctor this should be raised immediately orally with the clinician responsible for the service (i.e. Head of Service or Consultant on call then complete an exception report within 24 hours (see section 5.2 immediate safety concerns). The doctor should copy the exception report to the Educational Supervisor (if the Clinical Supervisor is the auctioning supervisor), DME if the issue relates to training or the Guardian if it relates to safe working practices or both if applicable.

If the doctor in training is in a different area to their Educational Supervisor, the investigation of the exception report submitted can be devolved to their Clinical Supervisor. In order to action this the doctor in training will need to select the Clinical Supervisor when submitting the exception by selecting the option to indicate which of the two supervisors available are going to be dealing with the case. In these circumstances the Clinical Supervisor will be responsible for actioning and resolving the exception. The Educational Supervisor will be notified of the exception as the 'secondary supervisor,

Doctors in training should refer to the technical guide on DRS4 for support on the log in and reporting process.

#### 5.1.2 Educational Supervisors

Educational Supervisors are issued usernames and passwords via the Medical Workforce Team. When a doctor in training first logs into DRS (4) they are asked to check that the name of the Educational Supervisor attached to them is correct.

When a doctor in training raises an exception report an automatic alert is sent to that individuals' Educational Supervisor. When this occurs, the Educational Supervisor should log into DRS (4) and review the information and then discuss it with the doctor to agree what action is necessary to address the issues. During this period the Educational Supervisor may need to liaise with the appropriate Clinical Supervisor if the trainee is not in their specialism for information (see section below – *5.1.3 what happens if the doctor in training is in a different division/specialism to their Educational Supervisor*).

The supervisor will set out the agreed outcome of the exception report, including any agreed actions in an electronic written response to the doctor. It is the agreed default action that all appropriate exceptions should be resolved via TOIL in the first instance. Any TOIL that is not taken due to service needs within a 4-week period will be paid (see Appendix 4). The outcome should be copied to either the DME if the issue is educational, or the GoSW, or both depending on the issue. At this stage in the process the doctor and Educational Supervisor should be able to establish if:

- in the case of training issues, it is a one-off issue
- in the case of safe working hours issues, it is the choice of the doctor to stay late etc.

In the above circumstances if the issues are resolved there is no further action required other than to agree to close the case and notify the Guardian or DME of the outcome.

If there is a pattern emerging then this will require a level 1 work schedule review – see section 4.3 for the work schedule review process.

A flow chart is attached at Appendix 2a for trainee related issues and Appendix 2b for safety related issues.

### **5.1.3 What happens if the doctor in training is in a different division/specialism to their Educational Supervisor?**

If the doctor in training is in a different area to their Educational Supervisor, the investigation of the exception report submitted can be devolved to their Clinical Supervisor. In order to action this the doctor in training will need to select the Clinical Supervisor when submitting the exception. In these circumstances the Clinical Supervisor will be responsible for actioning and resolving the exception. The Educational Supervisor will be notified of the exception as the 'secondary supervisor', and is therefore able to comment on the system. In this way the Educational Supervisor retains awareness of any issues and is able to continue to fulfill their overall responsibility under the terms and conditions of the new contract for the doctor in training.

### **5.2 Immediate safety concerns**

Where there is a potential immediate and substantive risk to the safety of patients or the doctor this should be raised immediately orally with the clinician responsible for the service (i.e. Head of Service or Consultant on-call) then complete an exception report within 24 hours.



Where the doctor feels that there is an immediate and substantive risk to her/himself or patients this should be raised orally immediately to the clinician responsible for the service. This should be followed up within 24 hours by an exception report.

**Clinician receiving the report option 1**

If the clinician receiving the report agrees that there are serious concerns with immediate risk s/he can grant immediate time off from their work schedule and/or ensure immediate provision of support. The doctor notifies the ES and Guardian within 24 hours via exception report. The ES undertakes immediate work schedule review.

**Clinician receiving the report option 2**

If the clinician receiving report agrees there is a serious but not immediate risk the clinician can ask the doctor to submit an exception report to the ES requesting a work schedule review.

**Clinician receiving the report option 3**

If the clinician receiving the report considers that the single concern raised is significant but not serious or understands that there are persistent or regular concerns the clinical shall ask the doctor to raise an exception report to the ES within 48 hours (not 24 hours)

## East Kent Hospitals University NHS Foundation Trust Work Schedule

| General Work Schedule                                   |   |
|---|---|
| <b>Training Programme:</b>                              |   |
| <b>Specialty placement:</b>                             |   |
| <b>Grade:</b>   |   |
| <b>Length of placement:</b>                             |   |
| <b>Employing organisation:</b>                          | East Kent Hospitals University NHS Foundation Trust   |
| <b>Host organisation (if different from the above):</b> |   |
| <b>Site(s):</b>   |   |
| <b>Educational Supervisor:</b>                          |   |
| <b>Clinical Lead/Rota Co-Ordinator:</b>                 |   |
| <b>Name of Guardian:</b>                                | Dr Neil Goldsack  |
| <b>Contact details of Guardian:</b>                     |   |
| <b>Medical Workforce Department Contact Details:</b>    |   |
| <b>Working pattern:</b>                                 | Basic hours only / Full shift / On-call rota <i>(delete as appropriate)</i>   |
| <b>Rota Template:</b>                                   | Your working pattern is arranged across a rota cycle of <<insert number>> weeks, and includes:<br>Normal days<br>Long days<br>Night shifts<br>Weekend shifts<br>On-call duties<br><i>(Delete any that do not apply)</i><br>A copy of your rota template is attached to the end of this document<br><u>to be appended</u><br><b>Average Weekly Hours of Work:</b> <i>to insert</i><br>Your contract is a full-time / less-than-full-time <i>(delete as appropriate)</i> contract for <<Insert number up to a maximum of 40>> hours |

You will in addition be contracted for an additional <<insert number up to a maximum of 8>> hours, making for total contracted hours of <<insert sum of the above two figures>>

The distribution of these will be as follows:

Average weekly hours at basic hourly rate:

Average weekly hours attracting a 37% enhancement:

Note: these figures are the *average weekly hours*, based on the length of your rota cycle, as required by Schedule 2 of the Terms and Conditions of Service. These may not represent your actual hours of work in any given week.

**Annual pay for role\*** (select elements as appropriate)

Basic Pay (Nodal Point): <<insert annual cash amount>>

Pay for additional hours above 40: <<insert cash amount>>

Enhanced pay at 37% rate: <<insert cash amount>>

Weekend allowance: <<insert cash amount>>

On-call availability supplement: <<insert cash amount>>

Flexible Pay Premia [Type]: <<insert cash amount>>

Total pensionable pay: <<insert cash amount>>

Total non-pensionable pay: <<insert cash amount>>

**Total annual pay for this role:** <<insert cash amount>>

Should your placement be for less than 12 months, your pay will be pro-rated to the length of your placement.

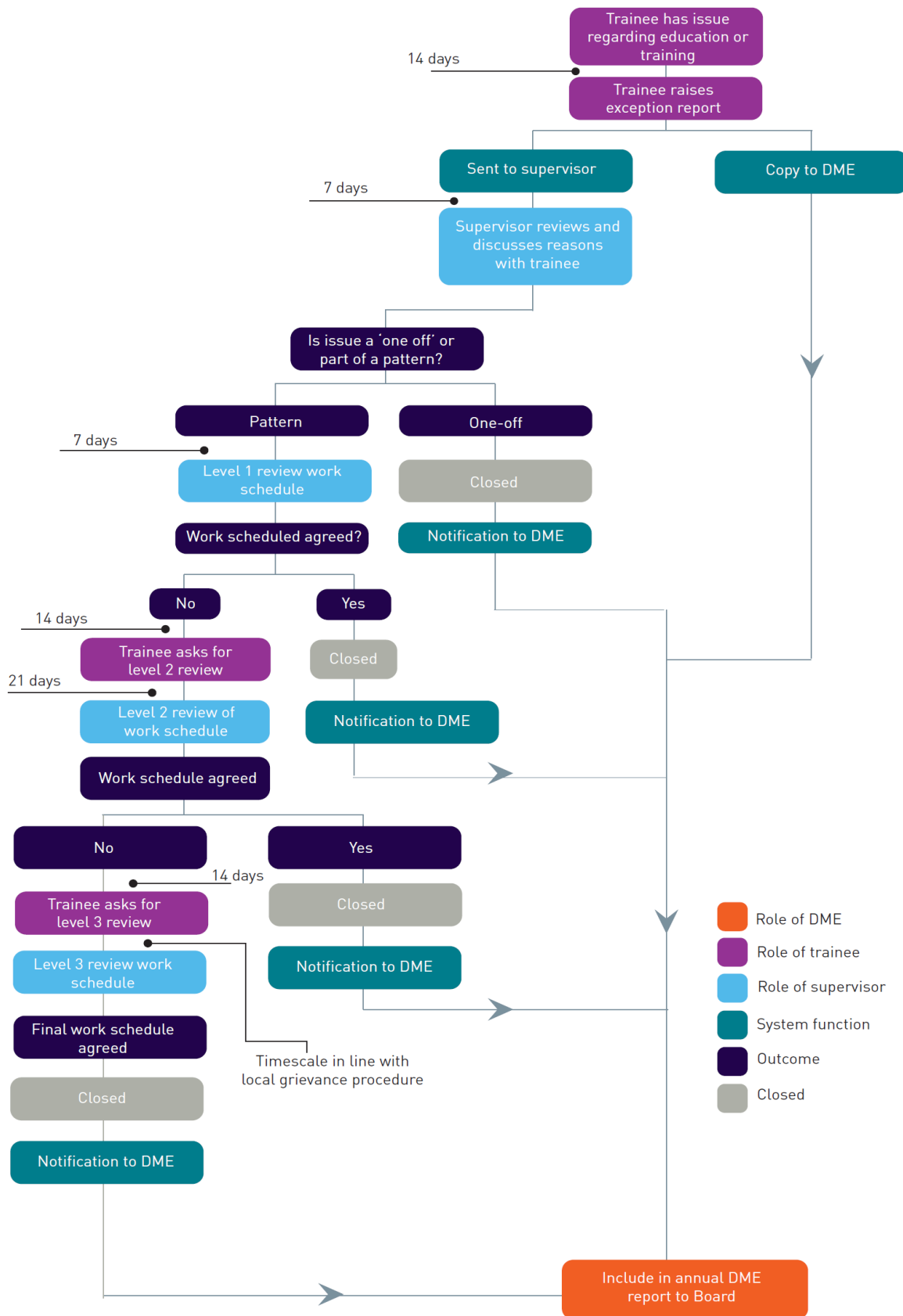
\*Please note- if you are entitled to pay protection in line with Schedule 2 of the TCS or to transitional pay protection in line with Schedule 14 of the TCS, then your actual salary may be greater than the above figure. Where this is the case, your salary will contain one or more additional pay protection elements so as to maintain your salary at its protected level.

## Personalised Work Schedule To be undertaken at work/educational review meeting

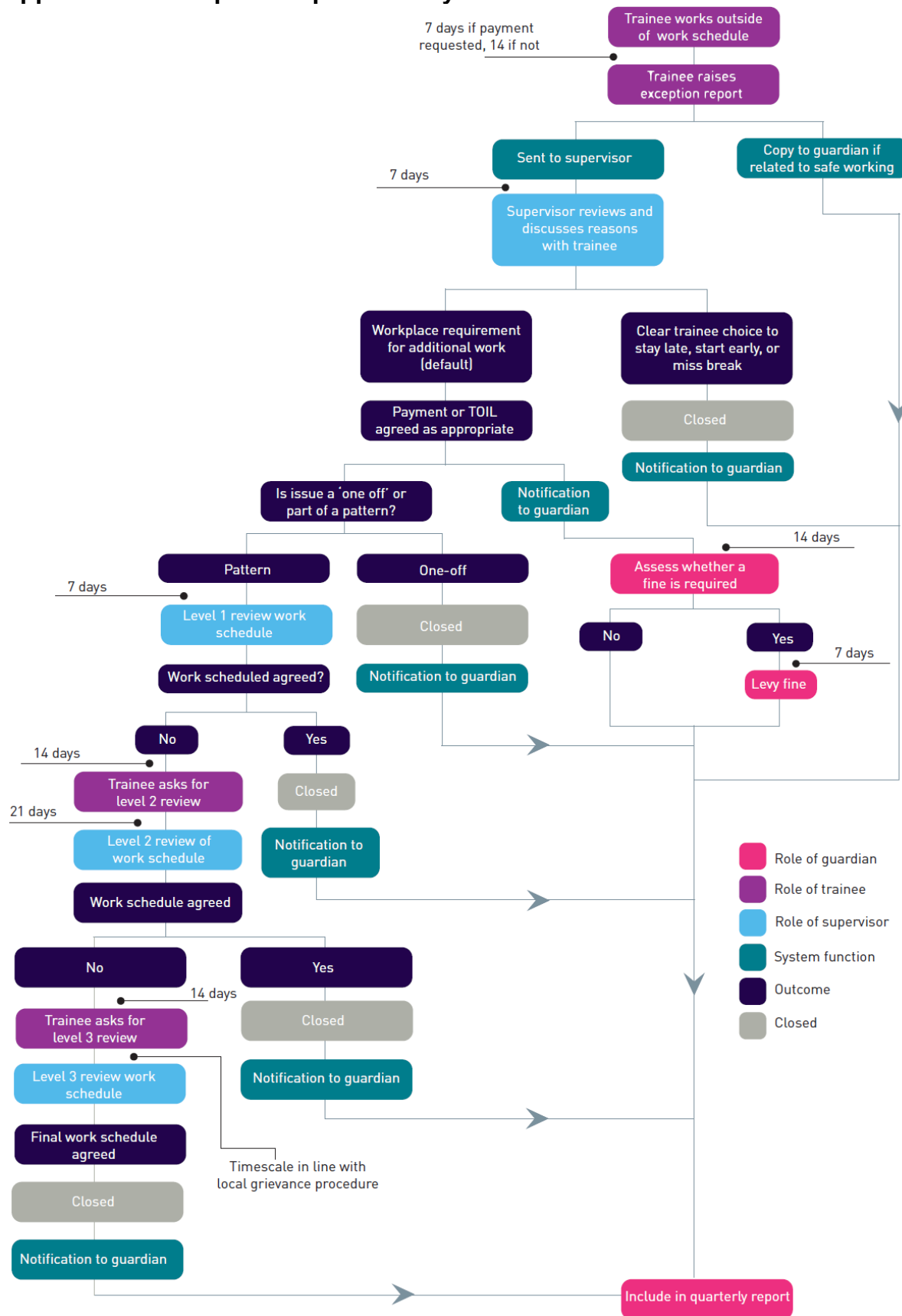
**Training Opportunities:** *Insert the curriculum mapped outcomes that can be achieved whilst in this placement, together with the formal and informal learning opportunities available to the post-holder. This can be a print out from the relevant section of the trainee's portfolio (attached to this document or hand written if preferred).*

**Other:** *Insert any other items relevant to the placement*

## Appendix 2a Exception Report - Training Related Issues



## Appendix 2b Exception Report - Safety Related Issues



**Rota rules quick guide where fines could apply**  
**(Full details are located at Schedule 03 of the Terms and Conditions of Service 2016)**

| Rule  | Potential fine information and general notes  |
|---|---|
| Maximum 48 hour average working week  | <b>A guardian of safe working hours fine will apply if this rule is breached</b>  |
| Maximum 72 hours work in any 7 consecutive days   | <b>A guardian of safe working hours fine will apply if this rule is breached</b>  |
| Maximum 13 hour shift length  | On call period can be up to 24 hours  |
| Maximum 5 consecutive long shifts, at least 48 hours rest following the 5 <sup>th</sup> shift                                     | Long shift - a shift rostered to last longer than 10 hours  |
| Maximum 4 consecutive long daytime/evening shifts, at least 48 hours rest following the 4 <sup>th</sup> shift                     | Long evening shift - a long shift starting before 16:00 hours rostered to finish after 23:00 (a long shift starting after 16:00 will fall into the definition of a night shift)   |
| Maximum 4 consecutive night shifts. At least 46 hours rest following the 3 <sup>rd</sup> or 4 <sup>th</sup> such shift            | Night shift - at least 3 hours of work in the period 23:00 to 06:00. Rest must be given at the conclusion of the final shift, which could be the 3 <sup>rd</sup> or 4 <sup>th</sup>   |
| Maximum 8 consecutive shifts (except on low intensity on call rotas) at least 48 hours rest following the final shift             | Low intensity on call - duty on a Saturday and Sunday where 3 hours, or less, work takes place on each day, and no more than 3 episodes of work each day. Up to 12 consecutive shifts can be worked in this scenario provided that no other rule is breached  |
| Maximum frequency of 1 in 2 weekends can be worked  | Weekend work - any shifts/oncall duty periods where any work falls between 00:01 Saturday and 23:59 Sunday  |
| Maximum frequency of 1 in 2 weekends can be worked (special exception for nodal point 2)  | For one placement of F2 (typically emergency medicine) the definition of weekend work is any shift rostered to start between 00:01 Saturday and 23:59 Sunday  |
| Normally at least 11 hours continuous rest between rostered shifts (separate on call provisions below)                            | Breaches of rest subject to time off in lieu (TOIL) which must be given within 24 hours. In exceptional circumstances where rest reduced to fewer than 8 hours, time will be paid at a penalty rate and the doctor not expected to work more than 5 hours the following day. <b>A guardian of safe working hours fine will apply in this circumstance</b> |
| 30 minute break for 5 hours work, a second 30 minute break for more than 9 hours  | <b>A guardian of safe working hours fine will apply if breaks are missed on at least 25 per cent of occasions across a 4 week reference period.</b> Breaks should be taken separately but it combined must be taken as near as possible to the middle of the shift  |
| <b>Specific to on-call working patterns</b>   |   |
| No consecutive on-call periods apart from Saturday and Sunday. No more than 3 on-call periods in 7 consecutive days               | A maximum of 7 consecutive on-call periods can be agreed locally where safe to do so and no other safety rules would be breached, likely to be low intensity rotas only   |
| Day after on-call period must not be rostered to exceed 10 hours  | <b>Where more than one on-call period is rostered consecutively (i.e. Saturday/Sunday) this rule applies to the day after the last on-call period</b>   |
| Expected rest while on-call is 8 hours per 24 hour period, of which at least 5 hours should be continuous between 22:00 and 07:00 | If it is expected this will not be met, the day after must not exceed 5 hours. Doctor must inform the Trust where rest requirements not met, TOIL must be taken within 24 hours of the time will be paid  |
| No doctor should be rostered on-call to cover the same shift as a doctor on the same rota is covering by working a shift          | Unless there is a clearly defined clinical reason agreed by the clinical lead and the working pattern is agreed by both the guardian and the Director of Medical Education  |

## Exception report – safety related issues – TOIL v Payment Quick Guide

**Step 1**  
Trainee Works  
outside of Work  
Schedule

- Trainee raises an exception report using the DRS4 system within 14 days maximum.
  - Trainee selects clinical supervisor as actioning supervisor (if working in a different specialism to their Educational Supervisor) and selects Educational Supervisor as “also notify”.
- or
- Trainee selects Educational Supervisor
  - Notification to the Guardian of Safe Working Director of Medical education are automatic

**Step 2**  
Clinical  
Supervisor or  
Educational  
Supervisor  
reviews exception  
report

- Contact is made with the trainee within 7 days of notification email to discuss exception by either Educational Supervisor or Clinical Supervisor, whomever the trainee selected as actioning supervisor. Decision is made on the appropriate course of action. If there is agreement that the exception requires equivalent time off then ~TOIL must be taken within 4 weeks of this decision. TOIL must be discussed and agreed with an appropriate departmental manager. The exception must be closed/resolved on the system.
- If the trainee chose to stay late/start early/miss a break and/or was not required to move away from their work pattern by actual service/paid need as clarified by the departmental management the case should be closed/resolved as “no action” and closed by the actioning supervisor.

**Step 3**  
Payment

- If TOIL agreed is not taken within 4-week timeframe then please contact the Medical Workforce Team ([ekh-tr.medicalworkforceteam@nhs.net](mailto:ekh-tr.medicalworkforceteam@nhs.net)) to action payment.
- Exceptions that occur within 2 weeks of the end of the rotation must be automatically be processed for payment if agreed as appropriate in step 2 above.