

Guidance for Junior Doctors at Salisbury NHS Foundation Trust working beyond their Contracted Hours

Introduction:

The European Working Time Directive (EWTD) came into force for junior doctors in August 2004, ensuring a maximum contracted working week of 48 hours (averaged over a period of 26 weeks). There are occasions when a junior doctor may wish to stay at work beyond their contracted hours. This might be to complete an episode of patient care, for good medical practice reasons or for educational and training reasons.

There are also occasions when a trainee wishes to attend work in their 'off duty' time to increase their learning and experience opportunities. Examples of these activities are attending clinics, theatre operating lists and diagnostic or therapeutic procedure sessions. The purpose of this paper is to provide some Trust guidance for these activities and consider the indemnity arrangements.

Working beyond contracted hours:

Where a junior doctor wishes to attend their place of work during off duty times they may do so however, there is no contractual requirement for this work and under normal circumstances the trainee should hand over any outstanding work to the in-coming or on-call doctor at the appropriate time (end of shift).

The Trust recognises there are times when it is essential for the trainee to stay beyond their shift to ensure patient safety. These hours should be included in an Exception Report, though the expectation is that over a '26 week reference period' the additional hours will average out to meet the EWTD conditions. There should not be a requirement to attend work before the contracted shift. Rotas may need to be amended if this is the case.

The trainee may choose to stay beyond their contracted shift hours for educational reasons (e.g. to see through an interesting case, take part in an unusual operation, gain additional experience). This activity is covered below.

Attending training opportunities beyond contracted hours:

Trainees may wish to attend the workplace in their own 'off-duty' time for educational and/or training opportunities. The following rules apply to this activity:

- It is voluntary and unpaid.
- The trainee is directly supervised by a Consultant or a senior trainee (i.e. is supernumerary).
- There is no service component to the activity.
- It is at an appropriate level for the trainee's competence.
- It is not part of contracted hours and there should not be a requirement to raise an Exception Report.
- The trainee must ensure their own fitness to practice (as per the GMC 'Good Medical Practice')
- The trainee should complete an EWTD opt out form (available from Medical Personnel) if these extra, voluntary, hours are frequent enough to breach the 48 hour week averaged over 26 weeks. The EWTD opt out allows the doctor to extend their

hours to 56 hours as per the New Deal rules, **but does not exempt the trainee from the length of shift and rest break rules, which must be adhered to.**

- These extra training sessions should be approved by the trainee's Educational Supervisor and should be recorded in their Learning Agreement or Appraisal documentation.

Indemnity:

Indemnity provided by the NHS Litigation Authority (NHSLA) applies to both the above activities. They restated their position in 2007, confirmed by the Department of Health on 27th August 2009:

'Any activity carried out by clinicians which would be the subject of an indemnity if carried out during 'allotted' hours' will be treated no differently under our schemes because that work was being done outside those hours'

Therefore, providing the trainee is acting appropriately, is within their competence, is fit to practice and is being supervised as above, the NHSLA will provide indemnity for such work.

References:

Chief Executive NHSLA – Circular No: 07/01.
Director Workforce capacity, Department of Health – letter dated 27 Aug 2009.
General Medical Council - Good Medical Practice 2013.
European Working Time Directive 2009.

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