**Hours’ Monitoring - Guidance for Local Negotiating Committees (LNCs)**

NHS Health Boards in Scotland have a contractual responsibility to monitor regularly the hours of work of junior doctors. As employers, they are contractually obliged to monitor junior doctors’ New Deal compliance and fully comply with the requirements of the Working Time Directive and the application of the pay banding system at least once every six months and/or at the request, in writing, of a doctor on the rota. Employers should comply with any request for additional monitoring. The junior doctor contract states that junior doctors have a mutual, contractual obligation to co-operate with monitoring arrangements.

In short, monitoring has two purposes:

- To check that juniors are on the correct banding allocation
- To check that employers are complying with the New Deal limits on contracted hours, hours worked, duty periods and rest requirements

Monitoring requires the collection of a variety of different data, which include rostered hours; actual hours worked; hours on-call; and rest periods. A monitoring period should generally occur under representative conditions of work intensity (i.e. not at exceptionally quiet or busy periods, nor when many doctors are away on leave) and should take place over a two week period or across the whole rota pattern if this is more representative. Junior doctors must be notified adequately in advance of the monitoring period.

Custom and practice is that all participants on a rota will be asked to monitor, including non-training grades. The return rate will be based on the percentage of training grade doctor shifts monitored. It is in the interest of all doctors on a rota to monitor their working patterns to ensure it is a true reflection of practice.

It is a requirement that a minimum of 75% of those being monitored return their monitoring data for analysis, and this covers a minimum of 75% of all duty periods worked over the monitoring period. If less than 75% of returns or 75% of duty periods are received by the employer, the monitoring exercise may be deemed invalid.

**Monitoring process**

**Pre-monitoring**

It is good practice for pre-monitoring meetings to take place, and it is important that Local Negotiating Committees (LNCs) engage with NHS boards and local management to maintain oversight of monitoring meetings and ensure that either a BMA LNC or RJDC representative(s) attend, and if possible, along with a local BMA Regional services member of staff. These meetings are important to ensure there are robust local monitoring arrangements supported by national guidance in place to allow for accurate recording of hours, rest and breaks and to deliver a high return rate of monitoring forms.

‘Pre-monitoring’ must not involve any sort of monitoring of working hours which is then used to manipulate working practices in advance of the ‘real’ monitoring period, e.g. by employing a locum. Pre-monitoring meetings should make clear the dates of the monitoring period, and ensure everyone is monitoring the same rota.

It is important that medical staffing representatives meet with junior doctors prior to a monitoring exercise to ensure that all doctors have all of the documents and information required for the monitoring process. Those being monitored must have received at their induction, or soon thereafter, local guidance and instructions on the purposes of monitoring and what is entailed. This should include monitoring forms, and guidance on how they should be completed, copy of the template rota, and the follow-up process after monitoring. They should also emphasise the importance of monitoring and contractual obligations to comply with monitoring exercises to provide truthful, timely and thorough information. Pre-monitoring meetings also offer a useful opportunity for employers to check they have the correct details of all doctors working on a rota – often the information from medical staffing is out-of-date, leading to forms being sent to the wrong doctors and thus raising the chance of an invalid monitoring round.

Hours’ information must be collated using agreed local recording methods, (e.g. diary cards) which align with national framework principles. Monitoring forms should be completed accurately to reflect the hours worked and rest achieved. Junior doctors are required to sign a declaration/counter fraud statement that the information provided on their monitoring form/diary card is correct and complete. Junior doctors should be encouraged to contact their BMA local representative if they feel pressurised to falsify monitoring or under-report hours, or if they do not think
their employer is monitoring appropriately. If monitoring does not occur, or is felt to be unrepresentative, this should also be brought to the attention of the employers’ HR department, the New Deal Advisor, LNC representative and BMA junior doctor representative.

It should be noted that, in Scotland, obtaining a consultant signature or management authorisation code can be used as part of an agreed (with the LNC) local monitoring procedure. However, the absence of a consultant signature/approval code does not entitle the employer to discount or invalidate the form. If used, the consultant sign-off or management authorisation process for breaches should be a requirement at all times, and not just during the monitoring period. Any breaches requiring further discussion/exploration should only be discussed/explored in accordance with the agreed post-monitoring process.

**Post-monitoring**

*Rapid, accurate and transparent feedback*

Employers are obliged to publish the results of monitoring within 15 working days of the last day of the monitoring period and make this available locally to the junior doctors concerned in order to provide clear feedback on the outcome of monitoring. Hours’ monitoring must be a familiar aspect of local and regional performance and management requirements, and there should be clear performance management lines of accountability within NHS Boards and externally. As such data publication of monitoring analysis and outcome should include dissemination to the New Deal Advisor, Local Negotiating Committee (LNC) and BMA junior doctor representative(s) for ongoing compliance purposes. LNC meetings should ensure they cover issues that are relevant and appropriate to all grades of doctors represented by the LNC, and local monitoring procedures should be included on agendas to be discussed to ensure there is agreement with local management to monitoring requirements, as well as continuing monitoring of compliance.

In most cases monitoring confirms the banding and compliance of the working pattern. It may, however, generate other comments or show a trend towards non-compliance that needs to be addressed. In some cases monitoring will prove a rota to be non-compliant or require a banding change. In these circumstances it is important that NHS Boards and junior doctors work together to develop solutions. Use of post-monitoring meetings, as well as pre-monitoring meetings will support to facilitate this process, and to ensure there is accurate, fair and robust hours’ monitoring.

**Further information**

The full terms and Conditions of Service for junior hospital doctors:


Junior Doctor Contract Implementation Guidance (includes Monitoring Guidance)


Scottish Junior Doctors Committee Guide to Monitoring:


The Junior Doctors’ Handbook provides an easy-to-understand digest of the main contractual and employment issues faced by junior doctors:


New deal Support: