

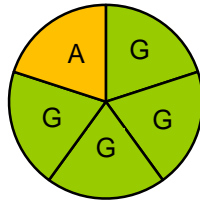
Internal Audit



Medical Rostering

February 2016

Report Assessment



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Introduction

During 2014/15, NHS Lothian employed an average of 20,405 whole-time equivalent (WTE) hospital and community services staff. This accounted for 97% of the 21,023 WTE average staff across the entire organisation during the year. NHS Lothian operates across a range of specialties and geographical areas, including 21 hospitals.

In order to ensure NHS Lothian has the right people, in the right place, at the right time, it is important that robust controls and processes are in place around medical rostering.

Scope

We reviewed the processes in place for developing and managing NHS Lothian's rosters for consultants, non-career grade staff, and doctors in training. This included an assessment of the procedures for approving late changes to shifts and monitoring of hours worked against regulations. We selected a sample of specialties from across NHS Lothian to perform our testing.

This audit did not include a review of the job planning process for consultants as that will be covered in the 2017-18 Internal Audit plan.

Acknowledgements

We would like to thank all staff consulted during this review for their assistance and cooperation.

Executive Summary

Conclusion

The controls surrounding medical rostering require improvement to fully mitigate the inherent risks, particularly relating to monitoring hours worked by staff. Specifically, there is inadequate monitoring of trainee doctors swapping shifts and the locum hours worked by trainees and non-trainees within NHS Lothian and other health boards.

In discussion with senior medical staff it was noted that it is becoming more difficult to fill rosters due to a lack of both trainee and non-trainee doctors, and the introduction of new guidance, such as recent guidance from the Scottish Government which states that trainees should not work more than seven days in a row.

Summary of Findings

The table below summarises our assessment of the adequacy and effectiveness of the controls in place to meet each of the objectives agreed for this audit. Definitions of the ratings applied to each action are set out in Appendix 1.

No.	Control Objective	Control objective assessment	Number of actions by action rating			
			Critical	Significant	Important	Minor
1	There are documented policies and procedures for medical rostering, which have been communicated to all relevant staff, and staff are fully aware of their individual roles and responsibilities.	Green				2
2	Medical rosters are created with reference to expected patient demand.	Green				
3	Medical rosters are completed, authorised, and communicated in advance.	Green			1	
4	The agreed procedures for managing staffing gaps are followed.	Green				
5	NHS Lothian monitors and reports on its compliance with the working time regulations.	Amber			2	1

Control Objective Ratings

Action Ratings	Definition
Red	Fundamental absence or failure of controls requiring immediate attention (60 points and above)
Amber	Control objective not achieved - controls in place are inadequate or ineffective (21 – 59 points)
Green	Control objective achieved – no major weaknesses in controls but may be scope for improvement (20 points or less)

Main findings

We identified a number of areas of good practice. Each specialty has a designated rota master who is responsible for preparing the rota. The rota master is always an individual who works within the specialty. Rotas are typically prepared for up to six months in advance.

Guidance on rotas, including EWTR (European Working Time Regulations) and New Deal, is available for all staff on the intranet. The EWTR is a UK statutory instrument that implements the European Working Time Directive. In addition, the HR Team provides guidance on New Deal and EWTR to rota masters within each specialty.

There is a Compliance Team in place which checks all new or revised trainee doctor rotas to confirm that they are New Deal compliant. The Compliance Team also has a system in place to monitor New Deal compliance for all trainee rosters twice a year.

During the audit we confirmed that rosters are developed without staffing gaps. However, staffing gaps can subsequently occur due to sickness absence and other issues. Where staffing gaps do occur there are agreed procedures in place to address these. This includes utilising in-house staff, procuring bank staff or agency/locum staff.

We identified three important issues during this review:

- The Plastics department at St. John's Hospital is working to implement an alternative electronic rostering system, but there has been no consultation with eHealth or Finance with regard to introducing the system and a business case has not been created
- Trainee doctors are swapping shifts without notifying their rota masters which could lead to contravention of the New Deal and EWTR regulations
- Three (2.1%) of the 140 rotas within NHS Lothian were only monitored during one of the last two monitoring periods, rather than both.

Further details of these points and three minor points are set out in the Management Action Plan.

Management Action Plan

Control objective 1: There are documented policies and procedures for medical rostering, which have been communicated to all relevant staff, and staff are fully aware of their individual roles and responsibilities.

1.1: Not all guidance has been effectively communicated to staff.

Minor

Observation and Risk

NHS Lothian must demonstrate compliance with the European Working Time Regulations (EWTR), which are designed to protect the health and safety of workers by setting minimum requirements for working hours, rest periods and annual leave. NHS Lothian must also comply with the New Deal, which is a package of measures designed to improve the working conditions of doctors in training. It provides guidance on hours of work, living and working conditions for all doctors in training. Updates to both EWTR and New Deal guidance are issued from time to time.

The NHS Lothian Compliance Team notifies specialties of any changes to New Deal or EWTR so that rosters can be amended and updated accordingly. In addition, NHS Lothian's intranet contains detailed guidance on both New Deal and EWTR.

The New Deal guidance was last updated in April 2015; it now stipulates that trainee doctors should not work more than seven consecutive days. However, during our meetings with eight rota masters, one (12.5%) stated that they had not been formally informed about the changes to the New Deal guidance and only became aware of the new guidance through conversations with a colleague. The updated New Deal guidance was not included within the New Deal and EWTR guidance on the intranet and two of the rota masters (25%) we met with stated that they did not know that the intranet site existed.

Since completion of the audit testing the Scottish Government issued revised guidance on seven-day working in November 2015, stating that NHS boards can choose to either not allow junior doctors to work more than seven consecutive days or seven consecutive 24-hour periods.

There is a risk that rosters are not compliant with New Deal and EWTR guidance if rota masters are not aware of all relevant guidance.

Recommendation

The New Deal & EWTR Compliance Manager should ensure that all future changes in New Deal and EWTR guidance are communicated in advance to all rota masters. This should be done through emails, intranet bulletins and internal communications, such as the Team Brief.

Any updates to the guidance should be added to the intranet in a timely manner. The New Deal & EWTR Compliance Manager should review the intranet page at least annually to ensure that the information and guidance is still up-to-date.

Management Response

Advice on maximum number of days in a row worked by doctors in training has been superseded by new advice since this report was in preparation. The maximum number of consecutive shifts has been communicated through email to all clinical directors to inform their rota masters. When the new guidance was initially introduced, every specialty was contacted, to ensure existing rotas were amended to meet the requirements of 7 Day maximum working. A monthly risk assessment report was produced for the Medical Directorate meetings.

Management Action

Updated guidance from SGHD and locally agreed Parameters Document will be incorporated to the EWTR and New Deal home page on HR On Line.

A review of the New Deal and EWTR Intranet page will be undertaken annually.

Responsibility: New Deal and EWTR
Compliance Manager

Target date: 31 March 2016

1.2: Rota masters sometimes cannot obtain advice from HR.	Minor
<p>Observation and Risk</p> <p>Although guidance relating to the New Deal is available to rota masters on the intranet, it is sometimes necessary to discuss more complicated or unique issues with the HR Manager for New Deal & EWTR Compliance, who is able to provide expert advice.</p> <p>However, the HR Manager for New Deal & EWTR Compliance has had sustained periods of absence during 2015-16 and this has highlighted a dependency on the expertise of this individual. During the audit, two of the eight rota masters sampled stated that they were not able to obtain expert advice on New Deal issues from the New Deal compliance team within HR.</p> <p>If rota masters cannot quickly and easily obtain advice from HR relating to New Deal compliance then there is an increased risk that trainee doctor rosters are not New Deal compliant.</p>	
<p>Recommendation</p> <p>The Head of Medical Workforce Planning and iMatter Operational Lead should provide training to an HR staff member so that expert advice can be provided to specialty staff in the event that the HR Manager for New Deal & EWTR Compliance is unavailable.</p>	
<p>Management Response</p> <p>Given the current long-term absence situation, junior staff in the New Deal team have been supported by external experts. New Deal staff are available 5 days per week, despite the absence of the Manager. If rota masters who stated that they could not obtain expert advice had contacted the Head of Medical Workforce Planning and iMatter Operational Lead he would have taken appropriate action to deal with their queries.</p> <p>Management Action</p> <p>Reductions in staffing levels, caused by LRP targets are leading us to review the set up of a number of small, person- dependent teams. As a result of this, plans are being developed to create larger, more robust teams across the HR Directorate, in order to improve resilience. This will include the New Deal Team.</p>	
<p>Responsibility: Associate Director of HR - Pay, Policy, and Performance Management</p>	<p>Target date: 30 September 2016</p>

Control objective 2: Medical rosters are created with reference to expected patient demand.

We identified no significant issues in relation to this control objective.

Each specialty has a designated rota master who is responsible for preparing the rota. The rota master is always an individual who works within the specialty. Rotas are typically prepared for up to six months in advance. We met with a sample of rota masters who stated that demand does not vary significantly during the year, except for a slight uplift during the winter months. However, they expect this increase in activity and therefore this is offset by an increase in the number of doctors working during the winter months.

In addition, all consultants have a job plan which sets out their responsibilities and the hours they will work on specific tasks, which helps to ensure that consultants do not work excessive hours and so contravene the EWTR.

Control objective 3: Medical rosters are completed, authorised, and communicated in advance.

3.1: Potential for unnecessary planned expenditure due to introduction of new electronic medical rostering system.	Important
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Observation and Risk

NHS Lothian recently introduced an electronic system for bank and agency staffing called Allocate. It is anticipated that the Allocate system will be rolled-out over the next three years to cover electronic medical rostering. Licenses have been purchased for relevant staff.

However, the Plastics department at St. John’s Hospital are working to implement an alternative electronic rostering system called Medirota in early 2016, although costs have not yet been determined. The system is a web-based system and is similar in nature to the system currently used within Anaesthetics. The department has not consulted with eHealth or Finance with regard to introducing the system and has not created a business case; instead the process to look at the possible use of the system was authorised by the Clinical Director. The system is being considered as it will allow doctors to be more easily rostered and will automatically check whether New Deal or EWTR are being contravened.

There is a risk that NHS Lothian incurs unnecessary expenditure through purchasing additional electronic medical rostering systems that it does not require. This may result in additional licensing, maintenance and training costs. There is also a risk of inefficiencies through operating two or more separate systems; for example management information will need to be extracted from separate systems and collated to get an NHS Lothian-wide picture.

Recommendation

Before authorising the purchase of any new electronic system, clinical directors should ensure that:

- eHealth have approved the system and, in particular, have determined that there will be no contravention of information governance standards;
- an existing or soon-to-be introduced pan-Lothian system could not be used instead; and
- the requirements of the Standing Financial Instructions have been complied with; particularly with regard to authorisation levels and the need to perform an option appraisal.

Management Response and Action

The Medical Director for University Hospitals and Support Services will highlight the risks and requirements described above through Associate Medical Directors and Clinical Directors and Site/Service Directors, and in particular for the Medirota system.

Electronic rostering is currently being introduced on a piece-meal approach across NHS Lothian. The Medical Director has agreed to raise this at CMT to ensure a coherent strategy is developed. Guidance will then be sent to the Service.

Responsibility: Medical Director for UHSS / Medical Director	Target date: 5 February 2016 / 31 December 2016
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Control objective 4: The agreed procedures for managing staffing gaps are followed.

We identified no significant issues in relation to this control objective.

Detailed testing for this control objective was covered by the audit of Bank & Agency Staffing performed during 2015-16.

During this audit we confirmed that rosters are developed without staffing gaps. However, staffing gaps can subsequently occur due to sickness absence and other issues. Where staffing gaps do occur there are agreed procedures in place to address these. This includes utilising existing in-house staff, procuring bank staff or agency/locum staff.

Control objective 5: NHS Lothian monitors and reports on its compliance with the working time regulations.

5.1: Staff swapping shifts are not always identified.

Important

Observation and Risk

Junior doctors all have agreed rotas, which are designed to be New Deal and Working Time compliant. The rotas are checked by NHS Lothian's Compliance Team to confirm whether signed off to ensure they meet the requirements of the Service, as well as the educational needs of individual trainees. This gives assurance that the planned rota is compliant with regulations, but does not provide assurance that the actual shifts worked by junior doctors are compliant.

NHS Lothian is required to monitor actual hours worked for a two-week period twice a year, for all rotas. This monitoring is a key control by which NHS Lothian can demonstrate actual hours worked are compliant with regulations.

We were informed that all trainees are reminded about the rules concerning shift swaps etc, as part of pre-monitoring talks, which are offered prior to the start of any monitoring period, in line with SGHD guidance. However, we met with a sample of rota masters who stated that trainees do not always inform them of any swaps in advance. Rota masters become aware of shift swaps anecdotally.

There is a risk that where junior doctors do not comply with swap rules, the New Deal and EWTR guidelines may be breached. This may lead to issues relating to patient care and safety and could result in adverse publicity and financial penalties for NHS Lothian.

Recommendation

All trainees should be informed that they should not swap shifts without prior approval by the rota master. Instances of staff not complying with the procedures should be raised as part of the performance appraisal process.

Management Response

All trainees are reminded about the rules concerning swaps etc, as part of pre-monitoring talks, which are offered prior to the start of any monitoring period, in line with SGHD guidance. Where rota masters become aware of unauthorised shift swaps they will raise the issue at the trainees' annual appraisals.

All grades of medical staff are reminded on an annual basis about their requirement to ensure they are fit to practice, in line with the GMC Guide to Good Medical Practice, as part of the annual appraisal process. This is recorded via the SOAR on line appraisal process.

NHS Lothian do not require any individual to work longer than New Deal or EWTR rules allow. Individual members of staff are entitled to 'opt out' of EWTR at a personal level. There is nothing that we, as the employer can do to prevent this from happening. However, as EWTR is about Health and Safety, individuals must be able to satisfy us, as the employer, as well as

the GMC, the Regulator, that they are fit to perform their role safely.

Management Action

None.

Responsibility: Medical Director for University
Hospitals and Support Services

Target date: Not Applicable

<p>5.2: New Deal compliance information is not always complete or passed directly to HR.</p>	<p>Minor</p>
<p>Observation and Risk</p> <p>Twice a year, the Compliance Team tests every trainee doctor rota within NHS Lothian to determine if it complies with New Deal requirements. As part of the testing, trainee doctors are required to complete New Deal monitoring returns, by recording their working hours over a two-week period. The individual specialties select the two-week periods to perform the testing but there must be one two-week period between 1 August and 31 January, and another two-week period between 1 February and 31 July.</p> <p>The monitoring returns are collated by the Compliance Team, with trainees either sending their paper returns directly to the Compliance Team or indirectly through their respective specialties. Where trainees provide their returns directly to the Compliance Team this will ensure an independent and objective process.</p> <p>NHS Lothian uses the electronic DRS system to assess rota compliance with EWTR and New Deal requirements. The system also has functionality that would allow trainees to submit their responses electronically, which would improve the efficiency of the information gathering process. However, the system is not currently used for this purpose.</p> <p>Once the Compliance Team has assessed whether the rota is compliant, they request the relevant management within the speciality to sign-off the monitoring information summary sheet. However, we tested a sample of seven rotas and found that one (14%) had a monitoring information summary sheet which had not been signed by the trainee doctor representative.</p> <p>There is a risk that the New Deal data provided by trainee doctors is inaccurate.</p>	
<p>Recommendation</p> <p>New Deal compliance forms should be returned directly to the Compliance Team and should not be collected by their specialties.</p> <p>A second member of staff within the Compliance Team should review the New Deal monitoring information summary sheets to ensure that they have been fully signed-off by both the consultant with management responsibility for the rota and by the trainee doctor representative.</p> <p>Finally, the New Deal & EWTR Compliance Manager should consider using the electronic DRS system to collect all New Deal compliance testing responses from trainee doctors, instead of the existing paper-based system.</p>	
<p>Management Response</p> <p>The New Deal Team are not resourced to follow up missing or incomplete monitoring returns. We comply with the requirements of Paragraph 26, Appendix C, HDL 2000 (17) in relation to</p>	

the collection of completed monitoring forms. It is important that Specialties take ownership of the monitoring process, rather than devolving it to the New Deal Team. Therefore, if Specialties wish to collate and then forward completed monitoring forms to the New Deal Team, then we do not believe this infringes the process. Specialties are merely acting as a post box – they do not change or amend forms.

Management Action

We will ensure that the administrative process to sign off New Deal summary forms is complied with by the New Deal Team.

We are reviewing the appropriateness and resources required to support the roll out of electronic monitoring using DRS. This may be superseded by the introduction of electronic rostering using Allocate, which could also be used to record New Deal monitoring returns.

Responsibility: HR Manager for New Deal & EWTR Compliance

Target date: 30 September 2016

5.3: Not all New Deal compliance monitoring has been performed.	Important
<p>Observation and Risk</p> <p>The last two completed monitoring periods for New Deal compliance testing were 1 August 2014 to 31 January 2015 and 1 February 2015 to 31 July 2015. We noted that three (2.1%) of the 140 rotas within NHS Lothian were only monitored during one of the monitoring periods, rather than both. New Deal monitoring staff had recorded an explanation for only one of the three missing monitoring periods. We noted that one of the three missing monitoring periods was scheduled for 17 November 2014 but no action was taken to confirm that the missed monitoring exercise was rescheduled before the end of the monitoring period on 31 January 2015.</p> <p>We were informed that where monitoring exercises are not completed, the SGHD New Deal Manager assesses the results of previous monitoring exercises in order to reach a decision about whether NHS Lothian will be assumed to have complied with the regulations or not. In the event that the decision is that NHS Lothian has not complied, the health board would be required to make additional payments to relevant staff.</p> <p>There is a risk that the current reporting of progress against plans for monitoring exercises is not sufficiently pro-active to detect and prevent missed monitoring exercises. This in turn could result in a financial penalty for NHS Lothian in the event that the health board is judged to be non-compliant with the regulations.</p>	
<p>Recommendation</p> <p>Management should consider whether additional reporting of progress to complete planned monitoring exercises, including in-period follow-up of instances when monitoring exercises did not take place as scheduled, would provide sufficient additional assurance to justify the additional resource required.</p> <p>This resource requirement should be considered against the likelihood and impact of any potential requirement to make additional payments to staff, should a rota be found to be non-compliant following non-completion of a monitoring exercise.</p>	
<p>Management Response</p> <p>Summary Compliance Statements are sent to the Medical Directorate and detailed Compliance Statements are sent to each Director on a quarterly basis. The New Deal Compliance team follow-up planned monitoring to ensure that monitoring takes place within the six-month window.</p> <p>Management Action</p> <p>The New Deal Compliance team will be instructed to ensure that any missed New Deal compliance testing is recorded appropriately in the Summary and Detailed Compliance Statements.</p>	
<p>Responsibility: HR Manager for New Deal & EWTR Compliance</p>	<p>Target date: Complete</p>

Appendix 1 - Definition of Ratings

Management Action Ratings

Action Ratings	Definition
Critical	The issue has a material effect upon the wider organisation – 60 points
Significant	The issue is material for the subject under review – 20 points
Important	The issue is relevant for the subject under review – 10 points
Minor	This issue is a housekeeping point for the subject under review – 5 points

Control Objective Ratings

Action Ratings	Definition
Red	Fundamental absence or failure of controls requiring immediate attention (60 points and above)
Amber	Control objective not achieved - controls in place are inadequate or ineffective (21 – 59 points)
Green	Control objective achieved – no major weaknesses in controls but may be scope for improvement (20 points or less)