

Junior Doctors Working Hours Exception Reporting Policy

Board library reference	Document author	Assured by	Review cycle
P179	John Bunce	Quality and Standards	3 years

This document is version controlled. The master copy is on Ourspace.

Once printed, this document could become out of date.

Check Ourspace for the latest version.

Contents

1.	Introduction	3
2.	Purpose or aim	3
3.	Scope	3
4.	Definitions	3
5.	Policy description	3
5.1	Exception Reporting	3
5.2	Financial Penalty relating to Exception Reporting	4
5.3	Expenditure of fines	5
5.4	Immediate safety concerns.....	5
5.5	Work schedule review process.....	6
i)	Level 1 Work Schedule Review.....	6
ii)	Level 2 Work Schedule Review.....	6
iii)	Level 3 Review work schedule.....	7
5.6	Reporting on Work Schedule Reviews	7
6.	Roles and responsibilities	8
6.1	Doctors in Training	8

Junior Doctors working hours Junior Doctors working hours Exception Reporting Policy

6.2	Educational Supervisors	8
6.3	Clinical Supervisors.....	8
6.4	The Guardian of Safe Working	8
6.5	The Director of Medical Education.....	9
6.6	The Junior Doctor Forum	9
6.7	Medical HR	10
7.	Training.....	10
8.	Monitoring or audit.....	10
9.	References	10
10.	Related Documents	10
11.	Appendices	10
11.1	Appendix 1 - Exception Report Flow Chart (Safe Working Practices)	10
11.2	Appendix 2 - Exception Report Flow Chart (Training Issues).	10

1. Introduction

The New Junior Doctors' contract 2016 sets out contractual limits on working hours and protected rest periods necessary to ensure both patient safety and the safety of the doctor. These safeguards are outlined in the National Terms & Conditions of Service NHS Doctors and Dentists 2016 which should be referred to in conjunction with this policy.

2. Purpose or aim

The purpose of this policy is to give clear guidance on the local framework for submitting exception reports and conducting work schedule reviews as required under Schedule 4 in the National Terms & Conditions of Service NHS Doctors and Dentists 2016.

3. Scope

This policy and procedure applies to Junior Doctors in Training employed by Avon and Wiltshire Mental Health Partnership NHS Trust under the National Terms & Conditions of Service NHS Doctors and Dentists 2016.

This policy and procedure also applies to Foundation Doctors and GP trainees during their placement with Avon & Wiltshire Mental Health Partnership NHS Trust.

4. Definitions

The purpose of exception reports is to ensure prompt resolution and / or remedial action to ensure that safe working hours are maintained. One or more exception reports can trigger a work schedule review.

A work schedule is a document that sets out the intended learning outcomes (mapped to the educational curriculum), the scheduled duties of the doctor, time for quality improvement, research and patient safety activities, periods of formal study, and the number and distribution of hours for which the doctor is contracted.

A work schedule review is a formal process, the purpose of which is to ensure that a work schedule for a doctor remains fit for purpose, in circumstances where earlier discussions have failed to resolve concerns.

5. Policy description

5.1 Exception Reporting

Exception reporting is the mechanism used by doctors to inform the employer when their day-to-day work varies significantly and/or regularly from the agreed work schedule. Primarily these variations will be:

- a) differences in the total hours of work (including opportunities for rest breaks)
- b) differences in the pattern of hours worked
- c) differences in the educational opportunities and support available to the doctor, and/or
- d) differences in the support available to the doctor during service commitments.

Exception reports allow the employer the opportunity to address issues as they arise, and to make timely adjustments to work schedules.

Junior Doctors working hours Exception Reporting Policy	Expiry date: 15/11/2021	Version No: 1	Page 3 of 13
---	-------------------------	---------------	--------------

Exception reports should include:

- a) the name, specialty and grade of the doctor involved
- b) the identity of the educational/clinical supervisor
- c) the dates, times and durations of exceptions
- d) the nature of the variance from the work schedule, and
- e) an outline of the steps the doctor has taken to resolve matters before escalation (if any).

The doctor will send exception reports electronically to the educational/clinical supervisor.

The electronic system used by the Trust is Allocate Healthmedics, e-rota.

<https://www.healthmedics.allocatehealthsuite.com/core>

This should be as soon as possible after the exception takes place, and in any event within 14 days (or 7 days when making a claim for additional pay, as per schedule 2 paragraph 62-68).

The doctor will copy the exception report to the director of medical education (DME) in relation to training issues, and to the guardian of safe working hours in relation to safe working practices. In some cases, the doctor may copy the report to both. See **Appendix 1** Exception Report Flow Chart (Safe Working Practices) and **Appendix 2** Exception Report Flow Chart (Training Issues).

Upon receipt of an exception report, the educational/clinical supervisor will discuss, where appropriate, with the doctor what action is necessary to address the reported variation or concern. The supervisor will set out the agreed outcome of the exception report, including any agreed actions, in an electronic response to the doctor via e-rota, copying the response to the DME or guardian of safe working hours as appropriately identified in the paragraph above.

The DME will review the outcome of the exception report to identify whether further improvements to the doctor's training experience are required.

The guardian of safe working hours will review the outcome of the exception report to identify whether further improvements to the doctor's working hours are required to ensure that the limits on working hours outlined in these TCS are being met.

5.2 Financial Penalty relating to Exception Reporting

The guardian of safe working hours will review all exception reports copied to them by doctors to identify whether a breach has occurred which incurs a financial penalty, as set out below.

Where such concerns are validated and shown to be correct in relation to:

- a) A breach of the 48-hour average working week (across the reference period agreed for that placement in the work schedule); or
- b) a breach of the maximum 72-hour limit in any seven days; or
- c) that the minimum 11 hours' rest requirement between shifts has been reduced to fewer than eight hours

The doctor will be paid for the additional hours at the penalty rates set out in Schedule 2, paragraph 68 of these TCS, and the guardian of safe working hours will levy a fine on the department employing the doctor for those additional hours worked, at the rates set out in Schedule 2, paragraph 68 of these TCS.

Where a concern is raised that breaks have been missed on at least 25% of occasions across a four week reference period, and the concern is validated and shown to be correct, the guardian

of safe working hours will levy a fine at the rate of twice the relevant hourly rate for the time in which the break was not taken.

Additionally, to ensure that no further breaches occur, a work schedule review may be required as set out below.

5.3 Expenditure of fines

The money raised through fines must be used to benefit the education, training and working environment of trainees. The guardian of safe working hours should devise the allocation of funds in collaboration with the employer/host organisation junior doctors' forum, or equivalent.

These funds must not be used to supplement the facilities, study leave, IT provision and other resources that are defined by HEE as fundamental requirements for doctors in training.

The details of the guardian fines will be published in the organisation's annual financial report (accounts), which are subject to independent audit. The guardian's annual report will include clear detail on how the money has been spent.

5.4 Immediate safety concerns

Where an exception report indicates concern that there is an immediate and substantive risk to the safety of patients or of the doctor making the report, this should be raised immediately (orally) by the doctor with the clinician responsible for the service in which the risk is thought to be present (typically, this would be the head of service or the consultant on-call). The doctor must confirm such reports electronically to the educational supervisor (via an exception report) within 24 hours.

The employer has a duty to respond as follows:

- a) Where the clinician receiving the report considers that there are serious concerns and agrees that there is an immediate risk to patient and/or doctor safety, the consultant on call shall, where appropriate, grant the doctor immediate time off from their agreed work schedule and/or (depending on the nature of the reported variation) ensure the immediate provision of support to the doctor. The clinician shall notify the educational supervisor and the guardian of safe working hours within 24 hours. The educational supervisor will undertake an immediate work schedule review, and will ensure appropriate (and where necessary, ongoing) remedial action is taken.
- b) Where the clinician receiving the report considers that there are serious but not immediate concerns, the clinician shall ask the doctor to submit an exception report to the educational supervisor, describing the concern raised and requesting a work schedule review.
- c) Where the clinician receiving the report considers that the single concern raised is significant but not serious, or understands that there are persistent or regular similar concerns being raised, the clinician shall ask the doctor to raise an exception report to the educational supervisor within 48 hours.

5.5 Work schedule review process

Where a doctor, an educational supervisor, a manager, or the guardian of safe working hours has requested a work schedule review, the process set out in the paragraphs below will apply.

i) Level 1 Work Schedule Review

The educational/clinical supervisor shall meet or correspond with the doctor as soon as is practicable, ideally no later than seven working days after receipt of a written request for a review. Where this is in response to a serious concern that there was an immediate risk to patient and/or doctor safety as described in paragraphs a) to c) above, this must be followed up within seven working days.

The conversation between the doctor and the educational supervisor will lead to one or more of the following outcomes:

- a) No change to the work schedule is required.
- b) Prospective documented changes are made to the work schedule.
- c) Compensation or time off in lieu is required.
- d) Organisational changes, such as a review of the timing of ward rounds, handovers and clinics, are needed.

Organisational changes may take a reasonable time to be enacted. Where this is the case, temporary alternative arrangements, including amendments to pay, may be necessary.

The work schedule review will consider breaches that are averaged over a reference period defined as being the length of the rota cycle, the length of the placement or 26 weeks, whichever is shorter.

Where extra hours have been worked, the supervisor will assess if time off in lieu is possible (preferred option) before seeking authorisation for additional payment from Medical HR and the respective departments' budget holder.

If dissatisfied with the outcome, the doctor may formally request a level 2 work review within 14 days of notification of the decision. The request must set out the areas of disagreement about the work schedule, and the outcome that the doctor is seeking.

ii) Level 2 Work Schedule Review

A level 2 review discussion shall take place no more than 21 working days after receipt of the doctor's formal written request.

A level 2 review requires a meeting between the educational/clinical supervisor, the doctor, a service representative and a nominee either of the director of postgraduate medical education (where the request pertains to training concerns) or of the guardian of safe working hours (where the request pertains to safe working concerns). Where the doctor is on an integrated academic training pathway, the academic supervisor should also be involved.

The discussion will first consider the outcome of the level 1 conversation and will result in one or more of the following outcomes:

- a) The level 1 outcome is upheld.
- b) Compensation or time off in lieu is required.
- c) No change to the work schedule is required.
- d) Prospective documented changes are made to the work schedule.

Junior Doctors working hours Exception Reporting Policy	Expiry date: 15/11/2021	Version No: 1	Page 6 of 13
---	-------------------------	---------------	--------------

- e) Organisational changes, such as a review of the timing of ward rounds, handovers and clinics, are needed.

If dissatisfied with the outcome, the doctor may request a final stage work review within 14 days of notification of the decision. The request must set out the areas of disagreement about the work schedule, and the outcome that the doctor is seeking.

iii) Level 3 Review work schedule

The final stage for a work schedule review is a formal hearing under the final stage of the employer's local grievance procedure, with the proviso that the DME or nominated deputy must be present as a member of the panel. <http://ourspace/Trust/Policies/Documents/P117.doc>

Where the doctor is appealing a decision previously taken by the guardian of safe working hours, the hearing panel will include a representative from the BMA or other recognised trade union nominated from outside the employer/host organisation, and provided by the trade union within one calendar month.

The panel hearing will result in one or more of the following outcomes: The level 2 outcome is upheld.

- a) Compensation or time off in lieu is required.
- b) No change to the work schedule is required.
- c) Prospective documented changes are made to the work schedule.
- d) Organisational changes, such as a review of the timing of ward rounds, handovers and clinics, are needed.

The decision of the panel shall be final.

Where at any point in the process of a work schedule review, either the doctor or the reviewer identifies issues or concerns that may affect more than one doctor working on a particular rota, it may be appropriate to review other schedules forming part of that rota. In this case, such reviews should be carried out jointly with all affected doctors and, where appropriate, changes may be agreed to the working pattern for all affected doctors working on that rota, following the same processes as described above.

5.6 Reporting on Work Schedule Reviews

The guardian of safe working hours shall report no less than once per quarter to the Board on all work schedule reviews relating to safe working hours. This report will also include data on all rota gaps on all shifts. The report will also be provided to the LNG.

The DME shall report annually to the Board on all work schedule reviews relating to education and training.

The Board is responsible for providing a copy of these annual reports to external bodies as defined in these terms and conditions, including the local offices of Health Education England, the Care Quality Commission, the General Medical Council and the General Dental Council.

The Trust will retain copies of all reviews for a period of two years from the date that an outcome is reached.

6. Roles and responsibilities

6.1 Doctors in Training

Doctors in Training are responsible for;

- Compiling with the limits set out in schedule 3 of the TCS, and that they remain safe to carry out clinical duties.
- Working with their Educational Supervisor to produce a personalised work schedule, according to the doctors learning needs and opportunities within the post.
- Working with their Educational Supervisor where changes to a work schedule are required during the placement if there are significant changes in the facilities, resources or services.
- Reporting all exceptions using the Exception reporting mechanism to inform the Trust when their day-to-day work varies significantly and/or regularly from the agreed work schedule.
- Working in partnership with the Trust to address issues raised through exception reports.
- Making themselves available to attend and contribute to meetings relating to Exception Reports and Work Schedule Reviews.

6.2 Educational Supervisors

The Educational Supervisors will;

- Work with the doctor to agree a personalised work schedule, according to the doctors learning needs and training opportunities within the post/placement, taking into account any significant caring responsibilities (where relevant) and any reasonable requests for variations to work patterns (within the constraints of service delivery).
- Discuss the work schedule with the doctor at regular educational review meetings to ensure that the workplace experience delivers the anticipated learning opportunities, and identify whether any changes in support, resources or service duties are needed to enable the doctor to achieve objectives.
- Make every effort to agree with the doctor appropriate changes to the work schedule and to implement agreed changes within a reasonable time, taking into account the remaining duration of the post/placement.
- Review the content of any exception reports and then discuss it with the doctor to agree what action is necessary to address the issue.
- Set out the agreed outcome of the exception report, including any agreed actions, in an electronic response to the doctor (and copied to either the DME or guardian of safe working, depending on whether the issue is educational or safety related, or both).

6.3 Clinical Supervisors

The Educational supervisor may formally reassign some responsibilities to a doctor's clinical supervisor where this is appropriate, for example where it will facilitate a local approach to resolving issues, or where the educational supervisor is not employed in the same organisation or department as the doctor.

6.4 The Guardian of Safe Working

The Guardian of Safe Working will;

Junior Doctors working hours Exception Reporting Policy	Expiry date: 15/11/2021	Version No: 1	Page 8 of 13
---	-------------------------	---------------	--------------

- Act as the champion of safe working hours.
- Provide assurance to both doctors and employers that doctors are safely rostered and are enabled to work hours that are safe and in compliance with the TCS.
- Access copies of all exception reports in respect of safe working hours to record and monitor compliance with the TCS.
- Review the outcomes of exception reports to identify whether further improvements to working hours are required to ensure that the limits outlined in the TCS are being met.
- Review all exception reports to identify whether there has been a breach that incurs a financial penalty and if so, levy a fine on the department employing the doctor.
- Require intervention to mitigate any identified risk to doctor or patient safety in a timescale proportionate with the severity of the risk.
- Require a work schedule review to be undertaken, where there are regular or persistent breaches in safe working hours that have not been addressed.
- Intervene in any instance where the safety of patients and/or doctors is compromised, or issues are not being resolved satisfactorily.
- Escalate to the relevant executive director issues raised in exception reports relating to working hours that have not been addressed at departmental level.
- Work in partnership with the Director of Medical Education to establish a Junior Doctors' Forum.
- With the advice of the junior doctors' forum, dispense money raised through fines to benefit the education, training and working environment of doctors. Providing detail in the annual report of how this money has been spent.

6.5 The Director of Medical Education

The Director of Medical Education will;

- Provide support to Educational/Clinical Supervisors on developing, making changes to and reaching agreement on Work Schedules.
- Have an overview of exception report outcomes where they relate to the need to make improvements to the doctor's training experience.
- Work in partnership with and provide support to the Guardian of Safe Working as and when required.
- Work in partnership with the Guardian of Safe Working to establish a Junior Doctors Forum.
- Be part of the Work Schedule Review process including where possible, being a panel member at the final appeal stage.

6.6 The Junior Doctor Forum

The Junior Doctor Forum will;

- Both support and scrutinise the work of the Guardian to ensure that the junior doctors' working hours and conditions are effectively monitored.
- Work in partnership with the Guardian of Safe Working to distribute monies, received as a consequence of financial penalties to improve the training and service experience of doctors.

- Work in partnership with the Trust to address issues raised through Exception Reports.

6.7 Medical HR

The role of Medical HR is to issue offers of employment, including generic work schedules, in accordance with the code of practice.

7. Training

Advice and guidance is available from the Medical HR Department when required.

8. Monitoring or audit

This policy will be monitored and audited on a regular basis.

A full review will take place after one year

9. References

This policy has been drawn up with reference to current UK and European employment legislation and relevant national terms and conditions.

[Junior doctors terms and conditions of service July 2016 - NHS Employers](#)

10. Related Documents

- [Grievance and Disputes Policy P117.doc](#)

11. Appendices

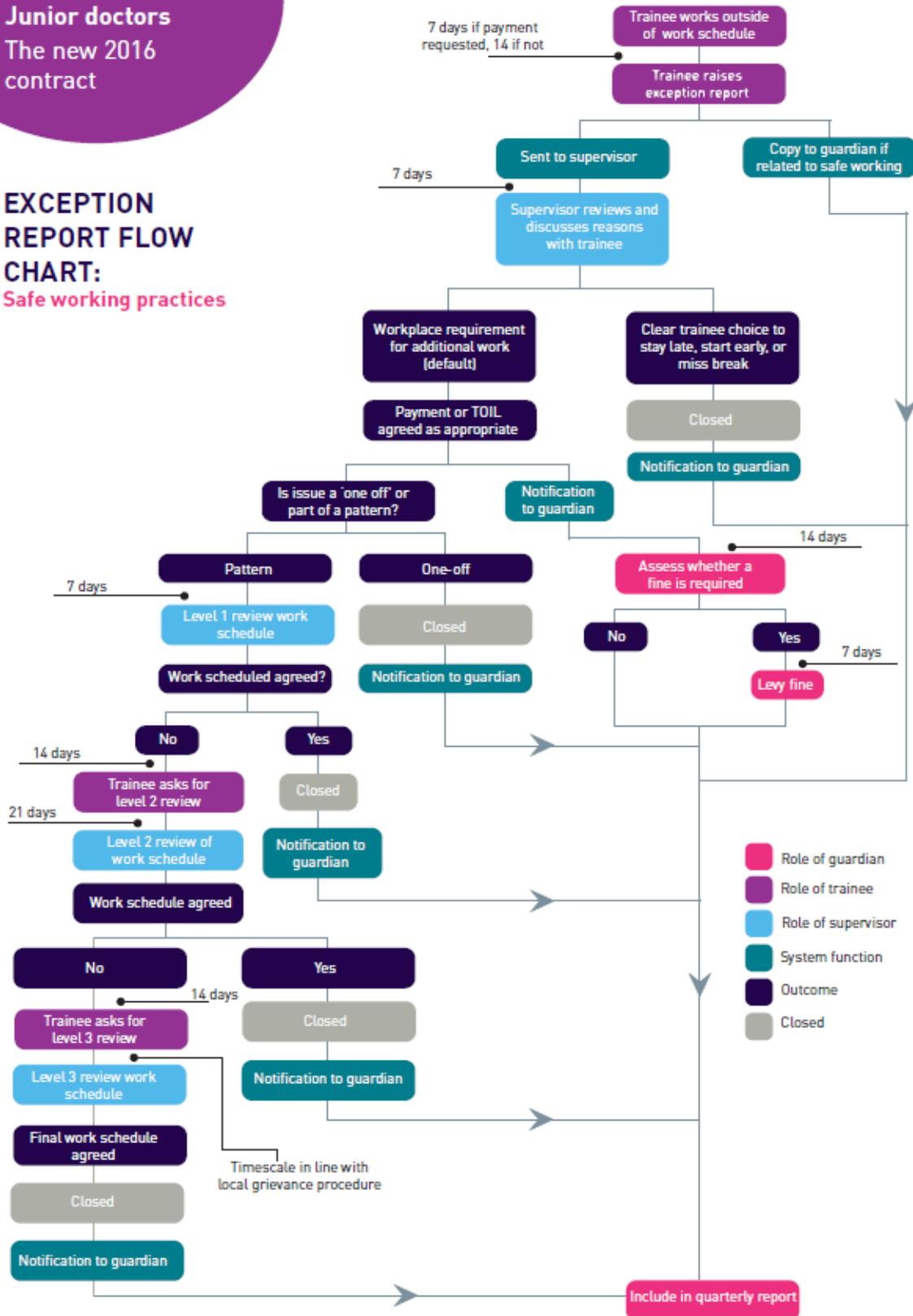
11.1 Appendix 1 - Exception Report Flow Chart (Safe Working Practices)

11.2 Appendix 2 - Exception Report Flow Chart (Training Issues).

Appendix 1



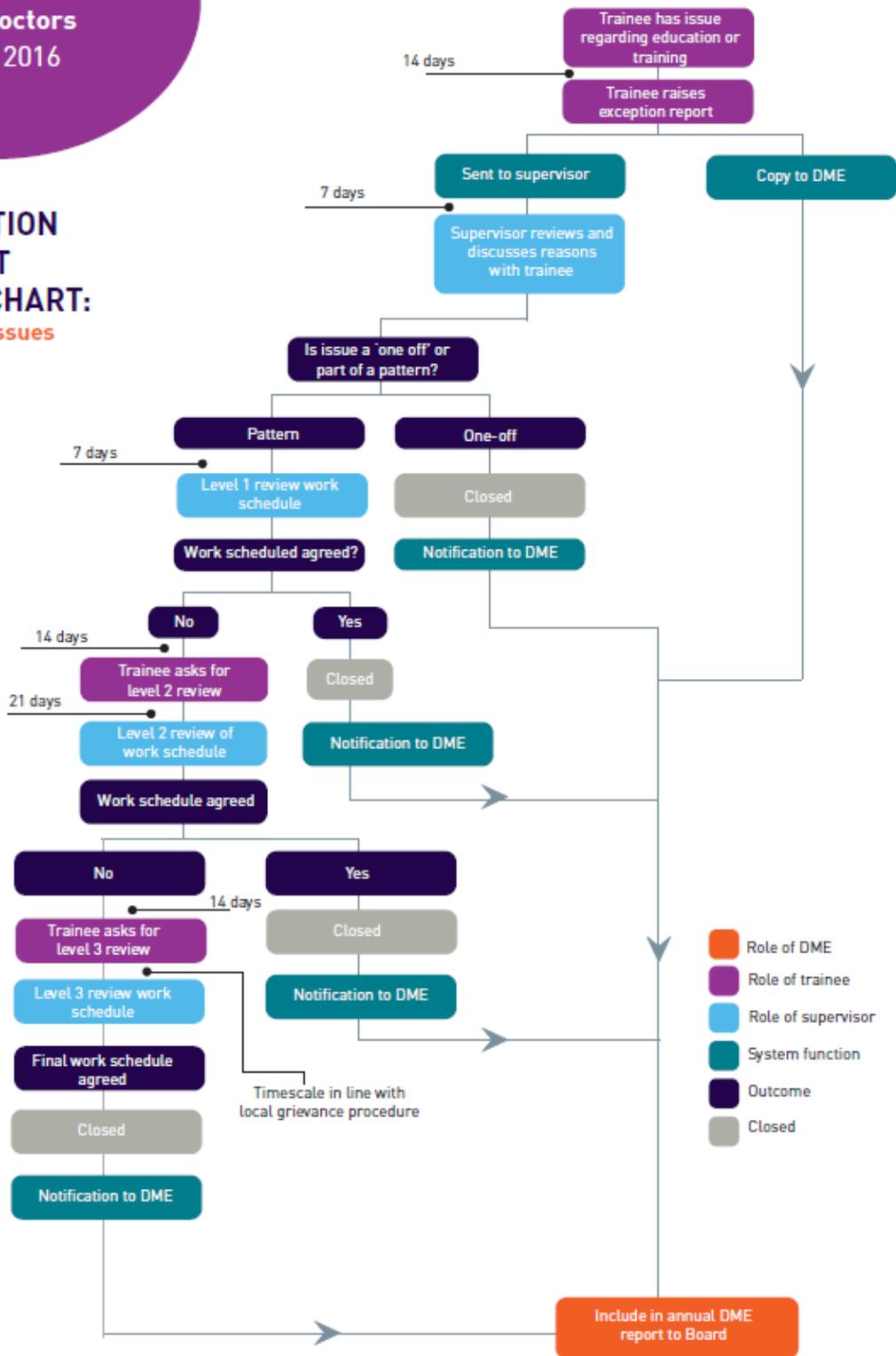
EXCEPTION REPORT FLOW CHART:
Safe working practices



Appendix 2



EXCEPTION REPORT FLOW CHART:
Training issues



Version History

Version	Date	Revision description	Editor	Status
1.0	03 December 2018	New policy	JB	Approved