1. **BACKGROUND**

1.1 The European Working Time Directive (EWTD) places an obligation upon the Trust to ensure that all junior doctors are working no more than 48-hours a week from August 2009.

1.2 The Trust’s Executive Management Board took a decision in September 2006 to take a proactive approach to achieving compliance with the aim of having all junior doctor rotas 2009 compliant by August 2007. One of the driving factors behind this decision was the opportunity provided by the implementation of MMC to minimise pay protection costs for junior doctors.

2. **CURRENT ROTA STATUS**

2.1 The Trust has agreed and implemented EWTD 2009 compliant rotas for each Division.

2.2 The Trust fully followed the New Deal Banding Protocol through which the proposed rotas were signed off for provisional banding approval by Junior Doctors, the Trust’s Director of Postgraduate Medical Education and the Deanery’s Improving Junior Doctor’s Working Lives Team (IJDWL).

2.3 The provisional approval granted required the Trust to monitor all new rotas within 6-weeks of implementation to ensure that the theoretical rotas were compliant in practice. The monitoring period is designed to confirm that the rota is working in practice, and requires the Trust to submit the monitoring information to the IJDWL for full and final approval of the rota. If the monitoring is not undertaken within 6-weeks of implementation the rota is automatically deemed to be non compliant (and will result in the rota being classified as non-New deal compliant, which carries a 100% pay supplement).

2.4 As the junior doctor changeover was slightly earlier this year than previous years the 5th and 6th weeks following the implementation of the provisional rotas fell over the August Bank Holiday weekend, a period when annual leave is premium. The IJDWL team recommended that the Trust did not monitor rotas over bank holiday weekends as they could be viewed as non-representative of the normal working pattern. The Medical HR department sought, and was granted, an extension to the 6-week rule and as such the monitoring took place the week commencing the 3rd September 2007.

2.5 The monitoring confirmed the provisional banding and all of the provisional rotas have now received full approval from the IJDWL team. The monitoring periods did highlight some concerns with a small number of rotas, particularly in the craft specialities, that need to resolved with the individual departments.

3. **PAY PROTECTION**

3.1 As stated above, one of the main reasons for the Trust to take early action on achieving 2009 compliance was the opportunity to maximise cost savings by minimising pay protection costs for junior doctors.
3.2 Pay protection applies to any junior doctor who was appointed to that rotation prior to the change in the banding being approved by the IJDWL Team. Where this occurs, they are entitled to be paid at the old banding supplement.

3.3 As MMC was being implemented for all grades above Foundation Year in August 2007, it provided the Trust with a window of opportunity to alter rotas and bandings to meet EWTD 2009 compliance prior to the appointment of a new tranche of junior doctors under MMC. As the Trust had obtained approval from the IJDWL team prior to the appointment of the new MMC grades, pay protection will not apply to these doctors and the Trust will reap the full benefit of any cost savings accrued in the implementation of new rotas. The only junior doctors below the SpR level in receipt of pay protection are GP trainees exempt from the August 2007 contract restrictions and Foundation year 2 doctors in post as Foundation year 1 doctors. The cost of pay protection at this level is approximately £167k, which is anticipated to reduce to approximately £65k in August 2008.

3.4 In addition to the above, the Deanery have recently issued advice on the implementation of pay protection in respect of SpR posts, in that pay protection now applies from the point of notification of a particular placement rather than dating back to the date of appointment to the grade. This advice has resulted in a reduction in pay protection costs for SpRs as they are part of a fluid rotation and their placements are decided on an annual basis based on training needs identified through their appraisal process. Pay protection at this level is fluid as it depends upon the point the individual SpR was notified of their placement to the Trust and may fluctuate year on year, however it is anticipated that the Trust will continue to see a reduction year on year in the pay protection rates.

4. POTENTIAL COST SAVINGS

4.1 The potential cost saving accrued from reducing the banding of rotas to EWTD 2009 compliant levels is in the range £415k - £564K per annum. It is worth noting that £275k of these anticipated savings has been re-invested in the service either to obtain compliant rotas or to mitigate the reduction in junior doctor hours. The potential net saving is therefore in the region of £140K - £289K. Appendix 1 details the cost pressures and savings by rota.

5. RISKS

5.1 It is imperative that the Divisions and individual departments ensure that the rotas are implemented appropriately and that all senior staff within departments actively manage the junior doctors to ensure that they are adhering to the rotas. This will require a fundamental shift in the management and culture of medical staff. If the rotas are not appropriately managed and implemented they will at best revert to a previous higher band but at worst will result in a Band 3 (100% salary supplement) if it fails to meet the New Deal criteria.

5.2 The reduction in junior doctor hours will have an impact on how services are provided, but as each Specialty has now signed up to the new rotas they

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1 This is based on point of the pay scale – range is from minimum to maximum
2 This is based on point of the pay scale – range is from minimum to maximum
must be cogniscent of what the impact will be and have appropriate plans in place to mitigate against these.

5.3 Key areas of concern in implementing and maintaining the new rotas are:

• ensuring that the junior doctors adhere to the agreed rotas and maintain the shift patterns as detailed, avoiding early starts and late finishes;

• ensuring that natural breaks are achieved (as little as 2 doctors not achieving natural breaks once a week can result in a band 3 rota);

• implementing changes to the agreed rota without obtaining the required approval from the IJDWL team, resulting in an automatic band 3 rota;

• reverting to the shift pattern in the old rota;

• Junior Doctors swapping shifts that result in a breach of the New Deal and/or EWTD regulations

5.4 The craft specialities, in particular, have to reduce the number of hours in the rotas as the rotas agreed are proving too inflexible and risk monitoring into a higher band or into a non-compliant banding.

6. ACTION REQUIRED

6.1 Executive Management board are asked to:

• Ensure that all medical staff, particularly senior staff, understand that achieving EWTD compliance is not the final step, rather that maintaining and managing that compliance is the first step in a long process of management of junior doctors hours, education and development.

• Recognise and ensure that appropriate measures are taken to address the impact of the reduction in junior doctor hours on service provision;

• Ensure departments responsibilities in respect of the new rotas is communicated within divisions.

Gertie Nic Philib
HR Business Partner
Medical Staff
February 2008
<table>
<thead>
<tr>
<th>Rota</th>
<th>Grade</th>
<th>No. on rota</th>
<th>Staff breakdown</th>
<th>Speciality</th>
<th>Division</th>
<th>Cost Pressure of Pay protection per annum ¹</th>
<th>Total Cost pressure of pay protection ²</th>
<th>Cost Savings (minimum) ³</th>
<th>Cost Savings (maximum) ³</th>
<th>Savings to be re invested to meet rota compliance</th>
<th>Band 3 Cost Pressure ⁴</th>
<th>Comments</th>
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<tbody>
<tr>
<td>WWL 03</td>
<td>SHO</td>
<td>10</td>
<td>6 SHO Surgery/ 1 FY2 Surgery/ 1 Urology SHO/ 2 ENT SHO</td>
<td>General Surgical</td>
<td>Surgery</td>
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<td>SpR</td>
<td>9</td>
<td>3 SpR/ 6 Staff</td>
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<td>£8,679.00</td>
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<td>calculations based on 3SpR, assuming no pay protection</td>
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<td>SpR/ SSCHO</td>
<td>5</td>
<td>1 SSHO/ 1SpR/ 1 Clinical research Fellow/ 2 Staff Grade</td>
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<td>SpR</td>
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<td>4 SpR/ 1 Staff</td>
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<td>SpR/SHO</td>
<td>5</td>
<td>2 SpR/ 3 SHO</td>
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<td>£62,112.00</td>
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<td>Calculations based on 8 SHO. 2 x FY2 pay protected</td>
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<td>Rota</td>
<td>Grade</td>
<td>No. on rota</td>
<td>Staff breakdown</td>
<td>Speciality</td>
<td>Division</td>
<td>Cost Pressure of Pay protection per annum ¹</td>
<td>Total Cost pressure of pay protection ²</td>
<td>Cost Savings (minimum) ³</td>
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<td>Savings to be re invested to meet rota compliance</td>
<td>Band 3 Cost Pressure ⁴</td>
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</table>

Notes

¹ pay protection figures based on the mid point of the pay scale
² pay protection figures based on the mid point of the pay scale and calculated over 3 years for SHO rotas and 5 years for Middle grade rotas
³ cost savings are based on the minimum point and maximum point respectively and are calculated over 1 year. Cost saving do not take account of current SpRs retaining pay protection
⁴ Cost pressure based on top of SHO and SpR payslips - Band 3 calculations include all eligible staff on rota