

**WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES
BY SENATOR S.C. FERGUSON
ANSWER TO BE TABLED ON MONDAY 18th JULY 2011**

Question

Can the Minister state what is the maximum number of hours a Middle Grade doctor may be continuously on duty?

Can the Minister confirm that when a 24 hour shift finishes, some Middle Grade doctors are allowed a rest period, whereas others carry on working until the next evening, and if so, can she explain why?

Given Verita's comment on 24 hour shifts, the 'on call' workload of Middle Grade staff and the impact on patient safety, is the Minister satisfied that Middle Grade doctors' working patterns are acceptable?

Can the Minister assure hospital doctors that recriminations will not follow if they raise legitimate concerns about working patterns and patient safety to managers, or if necessary, to States Members?

Will she reissue the table produced on 15th March 2011 in answer to 6123, updating the numbers of Middle Grade posts and vacancies in each department?

Does she consider that the very long hours undertaken by Middle Grade doctors in some departments is one cause of the problems with recruitment and retention, and can she update Members on progress of the new contract negotiations, explaining how the department proposes to address the problem of unacceptable hours worked by Middle Grade doctors?

Answer

Resident on-call: A doctor who is resident on-call is resident in the hospital and can be called upon to work as and when required. During the hours that they are resident on-call they could be working or resting (ie. they are available for work but not necessarily working). Doctors who are resident on-call are much more likely to be required to work during the on-call period (ie. the work intensity is higher)

On call: A doctor on-call will be at home, as opposed to in the hospital. They will be called upon to work as and when required. During the hours they are on-call they could be working or resting (ie. they are available for work but not necessarily working). Doctors on-call are very rarely called on for any significant period of work (ie. the work intensity is much lower).

- A) The maximum number of hours a middle grade doctor can be continuously available for work varies between specialties.

Some middle grade doctors can be continuously available for work for 32 hours during the week (ie. 24 hour shift followed by 8 hour day shift) and 56 hours¹ at weekends (ie. 48 hour shift followed by 8 hour day shift), although there are occasions where these hours are exceeded.

Hours may be exceeded for the following reasons:

- **Intensity of work during the on-call period:** In some areas of speciality a doctor may be on-call but the likelihood of them being required to work is very low. Where work intensity is low during an on-call period doctors can and do safely elect to be available for work for longer continual periods. For example, an ENT doctor could elect to be available for work from 8.00am Friday to 5.00pm Monday, which is a 81 hour period, but the actual hours worked would always be significantly less.
- **Individual working preference:** Where work intensity is low during the on-call period doctors may opt to undertake a full week on-call. For example, in Ophthalmology the doctors have chosen to undertake a full week on-call. This technically results in 168 hours continuous availability for work, but the actual hours worked are unlikely to exceed 50 hours across that whole week. By opting for this working pattern, they have one week with on-call duties and two with no on-call duties.
- **Voluntary additional hours:** The continuous period may also be exceeded if doctors voluntarily elect to undertake extra hours. It is entirely acceptable for doctors to elect to work, or elect to be available to work, for additional hours and is both in-line with UK working practice and the EWTD.

B) HSSD can confirm that whilst some doctors do have a rest period after a 24 hour shift, others do not. This is dependent on the speciality and the shift pattern worked. For example:

- The working pattern for middle grade doctors in Anaesthesia (Intensive Care) and Paediatrics is 24 hours on-call followed by 24 hours off duty. The intensity of work in these areas is considered too high to permit doctors to work a normal working day immediately after a 24 hour on-call period. This is known as 24 hour partial shift. During each 24 hour partial shift the doctor must have 6 hours rest.
- The working pattern for Middle grade doctors in other areas often involves 24 hours on-call (or 48 hours at weekends) followed by a normal days duty, which is usually an additional 8 hours. This is typical in surgical specialties where the on-call work intensity is low. However, for the reasons set out above this is not always the case and some doctors are available to work for longer continuous periods providing it is considered safe for them to do so.

¹ Under the European Working Time Directive (EWTD) doctors should not work more than an average 48 hours per week over a 26 week period (ie. some weeks will work more or less than 48 hours providing over 26 weeks period it is 48 hours per week) The EWTC does not apply in law to middle grade doctors employed in Jersey however HSSD does works to reflect UK working practice where the EWTD does apply. Under the EWTD it is only actual hours worked or hours resident on-call (as opposed to at home on-call) that contribute towards maximum working limits. HSSD doctors are therefore not in contravention of the EWTD by being continuously available for work for more than 48 hours.

- C) Verita did comment on the frequency of 24 hour shifts however they did not identify any need to review or adapt shift patterns nor did they make any associated recommendations. **The British Medical Association (BMA) which is currently involved in negotiations relating to the new middle grade contract and therefore very aware of working patterns, have not raised any issues or objections in relation to HSSD working patterns.**

HSSD is satisfied that processes are in place to ensure Middle Grade Doctor's working patterns are safe. Safety is assured through:

- the day-to-day management of middle grade doctors by their lead consultants and the Hospital Medical Directors;
- oversight of middle grade working patterns by specialist HR professionals and the job planning process;
- reviews of work intensity as required (note: this will become an annual requirement under the terms of the new middle grade contract);
- professional integrity– a doctor who experiences a peak in work intensity which results in tiredness will, as part of their professional commitment to patient safety, flag this as an issue. Likewise their clinical director will assess the health and wellbeing of a doctor undertaking high intensity work and decide whether it is safe for them to continue to work without a rest period (It is fairly common for doctors who have worked an arduous shift to be allowed by agreement, not to attend their next scheduled shift);
- professional responsibility – exhaustion may be considered a contributory factor in cases of professional negligence. If such a situation were to arise HSSD and the doctor would both bear joint responsibility and therefore both the individual and the organisation work to guard against the risk.

It is essential to understand that whilst working patterns may vary between the UK and Jersey this does not result in unsafe services. Some middle grade doctors in Jersey may have a higher on-call frequency than some UK based doctors (for example, they might be on-call 1 night in every 4 as opposed to 1 night in every 6) but that high on-call frequency would be balanced out by low on-call work intensity. This means that over any given period the actual hours worked – as opposed the hours available to work – may be significantly lower than the UK.

- D) Any staff member can be reassured that they will not be subject to recriminations of any kind for raising issues of concern.

HSSD is committed to creating a culture of openness in which staff can raise concerns about their working practices or about any organisational process, policy or decision making procedures. The considerable effort made by HSSD to ensuring that all staff can raise concerns in a safe and supported manner has been acknowledged by Verita.

Processes and support systems are in place to ensure that any issues raised are dealt with seriously and appropriately. These include:

- A dedicated HR team with substantial experience relating to the control of doctors' hours and rota design. HR staff will, and do, advocate on behalf of any staff members who have concerns about working patterns or work intensity.
- A medical staff grievance procedure.
- The States' whistle blowing policy.
- HSSD incident report system (DATIX).

- Access to the local negotiating committee representatives (2 designated middle grade doctors).

HSSD staff are encouraged to make use of these processes whenever they have concerns.

E) The current number of middle grade post and vacancies is-

Department	Number of middle grade posts	Current vacancies*	Status of vacancies
Emergency Medicine	5.5	2.0	One vacancy from 2nd August. 1 vacancy at present. (locum covering these duties). Interviews on 13th July. 1 successful candidate - start date to be confirmed.
Anaesthetics	11	1	Awaiting implementation of new SAS contract due to history of being unable to recruit. Full time locum in post covering vacancy in the meantime.
Dental	1	0	n/a
ENT	2	0	n/a
General Surgery	4	1	1 vacancy from 26th July (due to retirement). Recruitment for replacement underway. Locum to cover duties until appointment.
Medicine	8	0	n/a
Obstetrics and gynaecology	6	1	Candidate due to start 12th September. No locum in post as this is a growth (new) post.
Ophthalmology	1	0	n/a
Orthopaedics	5	0	n/a
Paediatrics	5	1.5	Unable to recruit to part time vacancy due to J cat reasons. Full time vacancy from 1st August. Post has been offered and candidate is expected to start mid September (Locum to cover gap)
Psychiatry	6	1	Vacancy to be re-advertised. Locum in post in meantime

- f) The recruitment and retention problems experience by HSSD primarily stem from the protracted negotiations regarding the middle grade contract. These negotiations are however very close to completion with a Heads of Agreement signed by SEB and the British Medical Association due to be issued by mid July.

This will be followed by a concentrated period of formal job planning for each middle grade doctor which will include reviewing and agreeing typical out of hours work intensity. If, as a result of this process, it is deemed necessary to adjust current working patterns this will be done.

For some individuals long hours may adversely affect recruitment and retention however, for others the opportunity to work longer hours on a voluntary basis is a positive factor,

making Jersey a more affordable place to live. Evidence overwhelmingly shows that the opportunity to work, and be paid for those additional hours, is very popular with middle grade doctors.

HSSD does not accept that there is necessarily a problem with long working hours. If hours were to be reduced by increasing headcount this would impact on the earning ability of middle grades, potentially having a detrimental effect on retention. More importantly, it would spread a relatively low intensity workload over a greater number of doctors potentially de-skilling them to the extent that they are unable meet the revalidation requirements of the General Medical Council and the UK Royal Colleges.

Important note:

HSSD measures its working practice against UK practice which is in accordance with the European Working Time Directive. The UK has significantly reduced the working hours of doctors, beyond that of most other jurisdictions. By reflecting UK practice HSSD is therefore applying optimal standards.