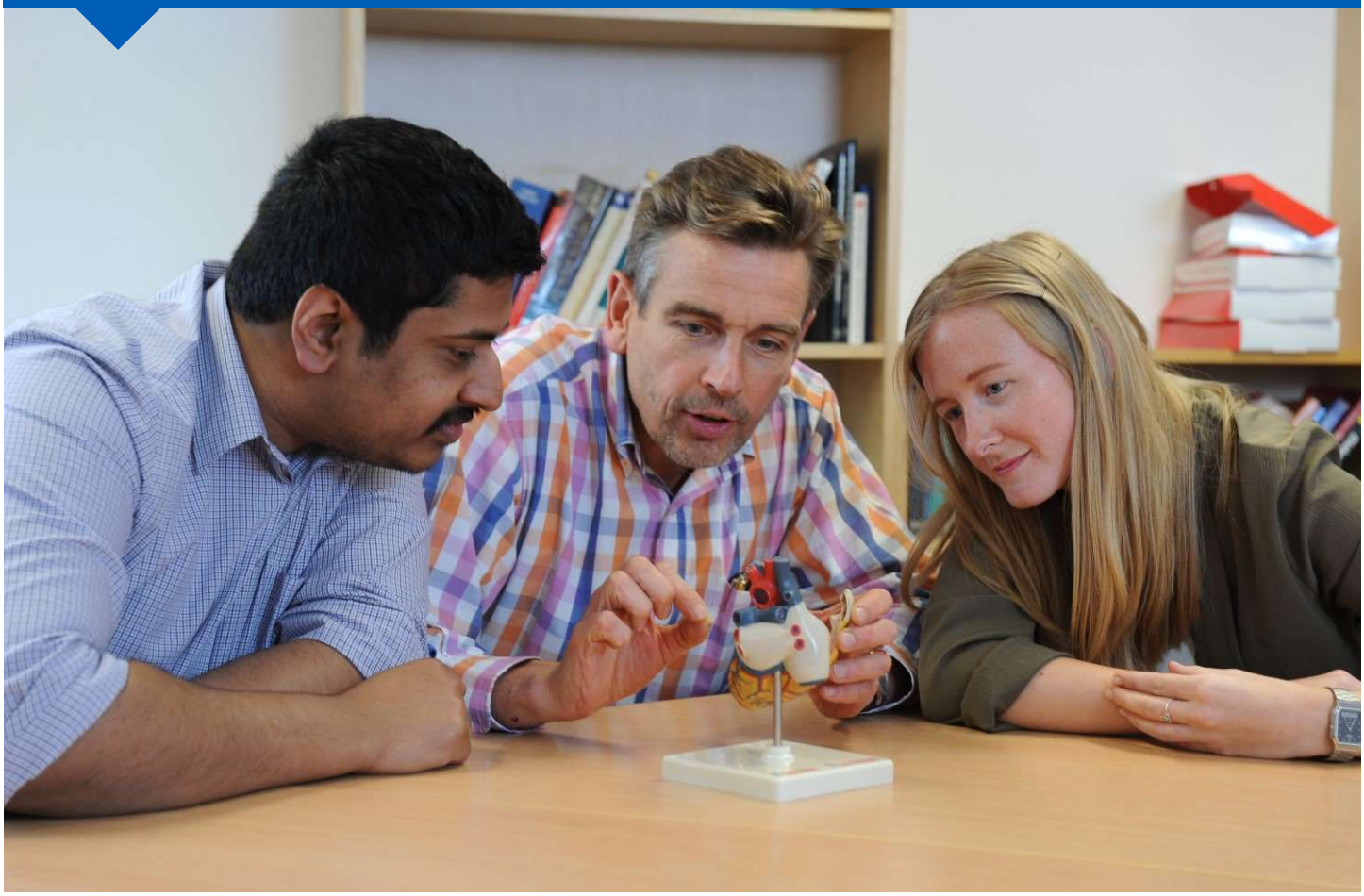
Health Education England

Guidance for Placement of Doctors in Training in the Independent sector (also known as Postgraduate medical trainees)



October 2021

Background

1. The NHS has always incorporated education and training with service delivery. The expectation is that multi-professional education for undergraduate and post-graduate health professionals will be designed into all areas where NHS service is delivered.

2. Most NHS hospitals, Trusts and Foundation Trusts employ doctors in training (DiT) to help support delivery of care at many levels of service. Training occurs within service delivery as part of a clinical post, supplemented by face to face, simulation and lecture-based training as needed, ensuring curricula are fully delivered.

3. With a clear recognition that the NHS needs to increase its workforce to meet patient demand, future service expansion and to reduce vacancy gaps, and given that the NHS model is one of education and training where patients are cared for, it will be essential to embrace independent sector (IS) providers as an extension of that education capacity, and specifically if NHS patients are being treated by them.

4. This guidance applies only to doctors in training in possession of a national training number (NTN) and for the care of NHS patients only.

5. Those contracts that are non standard will require local discussion between the IS provider, the CCG (local commissioner) and HEE local Postgraduate Dean. The same principles as stated in this document should apply with regards to educational and clinical governance.

Doctors in Training (DiT)

6. Postgraduate medical trainees or DiT on HEE sponsored, time-restricted programmes with specific curriculum requirements must be supported to maximise learning opportunities to meet those requirements and demonstrate and record that those requirements have been met. Equally trainees working under supervision in clinical placements contribute to service delivery as part of the practical experience they need to acquire to support their learning and training. This has become particularly visible during the COVID19 pandemic.

7. These DiT are not only the NHS consultants of the future, but also those that the IS will employ or engage and thus as essential to the future IS business model.

8. Many IS specialists and Consultants also work in the NHS. Any additional work in the IS requires discussion as set out in the Consultant Contract.[1] With too limited a pool of future Consultants, this may reduce future availability for the independent sector.

9. It is therefore in everyone's interest to ensure that training occurs in all settings where NHS patients are seen including independent sector settings as well as the NHS.

[1] https://www.nhsemployers.org/-/media/Employers/Documents/Pay-and-reward/Consultants---LCEA/Consultant-contract-Terms-and-Conditions-April-2018.pdf

Financial contributions to salary for Doctors in Training

10. Post Graduate Doctors in Training are supported through the Post Graduate Deaneries in each Region across England. Postgraduate Deans (PGDs) in England are employed by HEE and are responsible for ensuring training meets GMC standards.

11. The salary of 80% of all DiT is supported by a 40 - 50% contribution by HEE to the employing NHS trusts as set out in annex A of the DHSC tariff guidance. Detail of this funding is set out in the 'education funding' section below. In addition, some trusts have supported an increase in the number of DiT through trust-only funded posts, which account for the other 20% of DiT positions.

12. Where a DiT is placed in the IS, their salary will remain fully funded in this way (see tariff section below) without the requirement for the IS provider to contribute to the salary. Some 80% of posts for doctors in training in England are supported financially by HEE.

13. Therefore salary costs for DiTs will not be a burden to the IS.

Contracting

14. The NHS Standard Contract is used for the commissioning by CCGs and NHS England of all NHS-funded clinical services except primary care, whether from NHS or independent providers:

15. *"General Condition 5.7 of the 2020/21 NHS Standard Contract states: The Provider must cooperate with the LETB and Health Education England in the manner and to the extent they request in planning the provision of, and in providing, education and training for healthcare workers, and must provide them with whatever information they request for such purposes. The Provider must have regard to the HEE Quality Framework".*

16. Time for training, reflection, assessment, logbook review etc. should be taken into account by contractors and commissioners when setting up contracts locally. However it is anticipated that formal clinical and educational supervisor roles will continue to be delivered at the host NHS trust as part of normal clinical and educational supervision arrangements.

17. Although the Consultant supervising may not be the DiTs named Educational Supervisor/Clinical Supervisor they should be trained to this standard and be on the local PGD's trainer database for GMC purposes.

Education Funding

18. The responsibility for funding DiT is shared between Health Education England (HEE) and NHS England (NHSE). Funding flows via the respective tariff payment mechanisms and HEE makes two payments as part of the Education and Training (E&T) tariff mechanism to NHS providers:

    I. A contribution to the basic salary costs of all DiT. The amounts payable from HEE for postgraduate salaries have been uplifted for 2021-22 and vary to reflect national, fringe and London pay scales. These are set out at Annex A of the 21-22 tariff guidance.

II. A placement fee of £11,703 multiplied by the appropriate Market Forces Factor (MFF) index for the individual provider, which contributes to the direct costs of the provider from delivering education and training activity. The placement fee supports training infrastructure at NHS trusts such as libraries, educational and clinical supervisors and administrative costs.

19. NHS Commissioners provide salary funding for service delivery in accordance with the National Tariffs. (National prices and local prices) Unlike the funding from HEE, this funding is included as part of all the national tariff prices, which means that all activity which attracts a tariff payment includes a contribution to salary and flows to all providers.This means that all activity which attracts an NHSE tariff payment includes a contribution to DiT salary costs.

20. The responsibility for paying the salaries for DiT will remain with the NHS employer.

21. There are challenges associated with extracting the DiT salary funding from the national tariffs (NHSE).

22. The current approach to funding means that any training activity that takes place in the IS does not typically attract the HEE placement tariff, but equally does not require the IS to pick up the salary costs associated with the DiT, despite the salary funding being included in the national NHSE tariff payments that will flow to the IS.

23. Discussions should take place locally to determine whether there is a legitimate rationale for the education and training tariff to be shared across the DiT employer and IS provider. As in 3.4 the salary costs will not be required to be met by the IS.

24. Where this is not seen as sufficient to cover the costs of the training being provided within the IS, discussions should take place locally to agree the appropriate amount of additional funding required to cover costs.

25. The IS will need to itemise the additional costs for training which could be administrative support or senior medical educator support (see later guidance).

26. The HEE regional director and Regional PGD will need to decide how this may best be financially supported.This might require funding to be taken from the E&T tariff funding provided to NHS providers.

27. The overall amount paid per trainee should not exceed the current published E&T tariff price (including MFF). The distribution of the available funding should be agreed locally to reflect the delivery of the activity and the associated costs to the placement providers. The appropriate amount to transfer needs to be agreed locally to reflect:
    - what training activity and costs are being asked of the placement provider
    - that IS providers currently receive additional income for service delivery (in relation to salaries for doctors in training) through national and local prices for delivery of services.

Local Agreements

28. It is incumbent on the service commissioner, as part of the CCG, Integrated Care System and wider NHS to ensure that service commissioning enhances and does not disrupt the NHS responsibility to educate the future workforce.

29. Where NHS funded services are being provided in the IS, commissioners of that service should seek to ensure that, wherever necessary, the opportunity to extend the education and learning environment to include this service is explored and realised with the support and advice of the HEE PGD.

Accountability and clinical/educational governance

30. The trainee/doctor in training must be employed by an NHS trust.

31. This employing trust must approve the movement of DiT from NHS sites to work with their consultants when they are undertaking NHS-funded work in IS facilities.

32. The employing trust must confirm NHS indemnity is in place for the doctor in training to work in the IS site for the NHS work undertaken (see page 7 for full indemnity guidance).

33. DiT are always strongly advised to have additional personal indemnity. If this is in place already, then the doctor should advise the indemnity provider of the additional site of working.

Educational Governance

34. The Postgraduate Dean (PGD) is responsible to the GMC for the quality of training and confirmation that training has occurred locally to the required standard.

35. Clinical and educational supervisors are responsible to trust Directors of Medical Education (DMEs).

36. PGDs quality manage NHS trusts for the delivery of postgraduate medical training, and so the DME is required to provide assurance to the PGD.

37. Independent provider sites must be recognised as educational providers by the GMC[2]. This will be applied for by the PGD once the local need has been identified.
38. The PGD is the Responsible Officer for doctors in training and must be made aware of any issues that may give rise to any fitness to practice concerns.
39. The DME of the host trust will be responsible for educational governance and reporting to GMC standards. The DME will be responsible for updating the PGD as necessary and providing assurance that training that is occurring in the independent sector meets GMC and HEE standards and requirements.
40. Training Programme Directors (TPDs) and Heads of School are also accountable to their local PGD.

[2] https://www.gmc-uk.org/education/how-we-quality-assure/postgraduate-bodies/programme-and-site-approvals

Individual Doctors In Training

41. The training provided must be open to trainees in a recognised specialty training programme, regardless of level (including core trainees) with appropriate levels of supervision, tailored to meet the needs of the individual trainee.

42. The grade and stage of training should not be a barrier to training in the IS.

43. The PGD must approve the move. For example, in surgery, the TPD and Head of School of Surgery must agree local arrangements for the delivery of training in the IS, ensuring that the PGD is kept informed. The other required steps must be in place before doctors in training can work clinically at an independent site.

44. DiT must always be supervised by a recognised clinical or educational supervisor in the NHS. This information should be known prospectively and timetabled as part of the list/session. Local arrangements for recognition can be obtained from the Postgraduate dean.

45. The CQC has confirmed that IS providers must ensure that postgraduate medical trainees comply with staffing regulations set out in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.
namely as follows:
    - Regulation 18 (staffing);
    - Regulation 19 (fit and proper persons employed); and
    - Schedule 3 (Information required in respect of persons employed or appointed for the purposes of a regulated activity).

46. The CQC has confirmed that there are various mechanisms that an independent provider may be able to evidence that the requirements of the Regulations have been complied with. The most recent ARCP[3] form and form R[4] [5] may be used to provide evidence of some of these requirements.

47. The receipt of the most recent ARCP form as well as form R which can only be issued if the prerequisite employment and other checks have occurred. This should negate the need for any other additional pre employment checks although to fulfil requirements of the CQC Schedule 3 the IS provider will need to obtain this evidence from the NHS employer of the DiT with their consent to do so. The form also defines the training programme, grade as well as full scope of practice.

48. The DiT must provide a copy of these forms either electronically or via hard copy to IS administrative teams

49. If provision of this essential documentation is not possible then the DiT cannot work/train at the independent sector site.

[3] https://www.jcst.org/key-documents/ Trainee assessment form
[4] https://madeinheene.hee.nhs.uk/Portals/42/Form%20R%20Part%20A%20-%20Nov2018.pdf
[5] https://madeinheene.hee.nhs.uk/Portals/42/Form%20R%20Part%20B%20Nov2018_1.pdf

50. The PGD will approve, *prospectively*, those DiT who are able to work at the IS site, and provide additional assurance that there are no fitness to practice concerns.

51. The Consultant supervisor remains the clinician with overall responsibility for the care of the patient being treated.

52. The PGD remains responsible for quality of education and training and can stop the arrangements/withdraw the DiT if concerns arise.

Delivery

53. DiT should be included in the planning for service delivery in all settings.

54. DiT must be given the opportunity to gain a wide range of competencies. This will mean in specialties like surgery, taking part in theatre sessions. DiT should be involved in the consent process, but responsibility for consent will remain with the consultant.

55. Although out of hours cover should normally be provided by the independent provider's RMO/consultant, as per section 1, the Consultant remains the clinician with overall responsibility for the care of the patient being treated. Trainees are almost always needed to cover unscheduled care in NHS providers so should not normally be considered in this role. Determination of peri- and post- operative care and out of hours cover is a clinical matter between the commissioner and the provider. As such it does not form part of this educational agreement. The DiT is not personally or professionally responsible for ensuring the provision of that care.

56. Consideration should be given to deploying members of the wider multiprofessional team and consultants to cover gaps in rotas etc within the host NHS site., *to allow DiT to work in the IS if attendance would support educational progression.*

57. These are high level principles and the logistics of allowing trainees to participate in activity across multiple sites will necessarily vary depending on local circumstances. PGDs should be involved in local discussions as needed.

Out of hours cover and post treatment complications

58. The employing trust and independent provider must have an agreement in place clearly setting out the arrangements of who is responsible for providing specialist post treatment care of complications.

59. The arrangement for post treatment care must include arrangements for anaesthetic and surgical care in the event of unplanned return to theatre or an unexpected medical event.

60. The arrangement must include clear lines of responsibility and how medical, surgical and anaesthetic cover will be made available within a 30 mins time frame.

Indemnity

61. NHS staff in training grades who work in independent sector (IS) hospitals as part of their NHS training are covered by NHS indemnity (via the Clinical Negligence Scheme for Trusts membership of the employing Trust), provided that such work is covered by an NHS contract of employment and the doctor in training's employer has given permission for the training to occur in the IS. This is regardless of whether the supervising Consultant is an NHS Consultant or employed/engaged directly by the IS (and regardless of hours worked).

62. NHS students (nurses, medical students and AHPs) who spend time in IS hospitals as part of their NHS training placement are covered by NHS indemnity (via the Clinical Negligence Scheme for Trusts membership of the Trust providing the training placement to that student), provided that the student's activities are covered by the placement contract and the trust providing the placement has given permission for the student to spend time in the IS.

63. NHS trusts employing doctors in training or hosting student placements would be required to give permission for the training/placements to take place in the IS , and this permission should be given as part of the responsibilities of NHS trusts to support the education and training of the future NHS workforce.

64. If the supervising Consultant in the IS is not working as an NHS Consultant, but is directly employed or engaged by the IS in respect of their supervisory role then NHS indemnity will not be available to the Consultant. However, if the Consultant is directly employed or engaged by the IS and also holds an honorary contract with an NHS Trust, they may have indemnity from this Trust for their NHS work in the IS, if the NHS work includes supervising NHS training and placements undertaken in the IS. It is possible that the Trust providing indemnity to the Consultant may be different from the one providing indemnity to the doctors in training, for example where a lead employer arrangement is in place for the trainees.

65. All supervising Consultants, whether NHS or directly employed by the IS will need to be trained to GMC standards and on the local Postgraduate Dean's trainer database to ensure GMC standards are met. It remains the responsibility of the Postgraduate Dean to ensure all GMC standards are met.

    See also: JCST Guidance on Training Implications and Principles to Consider here

Infectious Disease Cover for Undergraduates in the Independent Sector

HEE is aware that some non-NHS providers are unable to get the level of infectious diseases insurance cover mandated in the NHS Education Contract.

In view of this HEE has worked with its legal team to explore how providers can remain compliance with the terms set out in the NHS Education Contract. The proposal agreed is for HEE to revised Clause 35.2 of the NHS Education Contract to the level of cover providers can obtain from the insurance market.

The below provides a guide on how HEE Contract managers should support providers that have expressed that they are unable to get the level of infectious diseases insurance cover (£10million) stipulated in the NHS Education Contract dated 1st April 2021.

- An enquiry to an HEE contract manager is received from the Provider that they are unable to get the level of cover amount stated in the NHS Education Contract.

- On receipt of the request, the Contract manager asks the provider to confirm in writing the amount of cover their insurance company can offer.

- Subject to the provider confirming the amount, Contract manager to draft the NHS Education Contract Insurance waiver agreement adding the cover amount the provider confirms they can get from the insurance market.

- On completion of the draft wavier Agreement, to seek approval to issue the waiver letter from appropriate regional leads or the National Contracts Team
- Subject to sign off received, to offer the waiver Agreement to the provider organisation for reviewing and signing.

Acknowledgements for the development of this document.
CoPSS
RCOphth
IHPN
NHSEI colleagues: Strategic Finance, Contracts and Independent Sector Co-ordination
NHS Resolution
DHSC
CQC
HEE: Education Funding Strategy and Reform, PGMDE

October 2021

Appendix A – Schedule 3 - Information Required in Respect of Persons Employed or Appointed for the Purposes of a Regulated Activity

1. Proof of identity including a recent photograph.
2. Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997(1), a copy of a criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request)(2).
3. Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of an enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children or vulnerable adults.
4. Satisfactory evidence of conduct in previous employment concerned with the provision of services relating to—
   a. health or social care, or
   b. children or vulnerable adults.
5. Where a person (P) has been previously employed in a position whose duties involved work with children or vulnerable adults, satisfactory verification, so far as reasonably practicable, of the reason why P's employment in that position ended.
6. In so far as it is reasonably practicable to obtain, satisfactory documentary evidence of any qualification relevant to the duties for which the person is employed or appointed to perform.
7. A full employment history, together with a satisfactory written explanation of any gaps in employment.
8. Satisfactory information about any physical or mental health conditions which are relevant to the person's capability, after reasonable adjustments are made, to properly perform tasks which are intrinsic to their employment or appointment for the purposes of the regulated activity.
9. For the purposes of this Schedule—
   a. "the appointed day" means the day on which section 30A of the Safeguarding Vulnerable Groups Act 2006 comes into force;
   b. "satisfactory" means satisfactory in the opinion of the Commission;
   c. "suitability information relating to children or vulnerable adults" means the information specified in sections 113BA and 113BB respectively of the Police Act 1997.