

## **ASiT submission of evidence for WTR Task Force.**

The following is submitted on behalf of the Association of Surgeons in Training as evidence toward the Working Time Regulations (WTR) Task Force Review.

### **I. About ASiT:**

ASiT is a professional body and registered charity working to promote excellence in surgical training for the benefit of patients and surgical trainees. With a membership of over 2,300 surgical trainees from all 10 surgical specialties, the Association provides support at both regional and national levels throughout the United Kingdom and Republic of Ireland. Originally founded in 1976, ASiT is independent of the National Health Service (NHS), Surgical Royal Colleges, and Specialty Associations. Governed by an elected Executive and Council, the association is run by surgical trainees for surgical trainees.

### **II. Working Time Survey:**

Since the Task Force was established, ASiT has completed a survey of the UK surgical trainee workforce. This is repeat of the survey conducted in 2009 upon implementation of the current legislation. Despite the very short turnaround time, owing to the time pressures on the Task Force, we have received over 1,200 fully completed responses, which are included in our preliminary analysis, comparing them with over 1,500 completed response in 2009. We are not aware of any larger workforce survey relating to working time. A summary document is enclosed<sup>1</sup> and detailed analysis will follow.

I feel it important to highlight several of the main issues highlighted by the survey:

#### **Demographics:**

- We received responses from all ten surgical specialties across the full range of training grades, although the vast majority were from Core or Higher trainee grades (87%). The gender distribution was 72:28 (m:f, %) and all regions of United Kingdom were represented.

### **Working patterns:**

- More than half of respondents' formal employment contracts do not accurately reflect the number of hours actually worked (56%) and 61% believe their rota to be WTR non-compliant, despite more than two thirds (70%) having been told by their employer that the rota is compliant. It does appear that the proportion of respondents reporting being on non-compliant rotas has fallen since 2009 (70% → 61%).
- Of those able to compare compliant and non-compliant rotas, only 25% reported an improvement in their work-life balance.
- A large proportion of trainees (29%) currently opt out of the regulations, but this figure almost doubles (57%) when we include those actively considering opting out. While remaining a majority, the latter figure has fallen from 67% since 2009.
- Worryingly, 43% of respondents reported unfilled slots on their rota, which does not seem to have improved since 2009 (40%). These are predominantly covered by internal individuals providing locum cover (78%), with great potential to reduce training opportunities in favour of service provision. Indeed, 38% of respondents report working additional locum hours.

### **Patient safety:**

- Almost a third of respondents (29%) believe that patient safety has been compromised by being on a non-compliant rota and a similar number (33%) report detrimental effects on patient care. This is exemplified by an apparent reliance upon 'goodwill' service provision, with three quarters (75%) of respondents reporting working late to ensure service quality is maintained.

### **Training:**

- Of those respondents who have worked on a compliant rota, 71% felt that it had negatively impacted on their training. Trainees are taking action in order to protect their training, with 72% attending to train on days off (median 2 days per month).

### **III. Additional documents:**

In addition to the survey, ASiT has actively contributed to the debate on WTR with a number of published documents.

ASiT published a practical review to help trainees understand the implications of European Working Time Directive (EWTD).<sup>2</sup> This was produced as an informative and practical guide for trainees on issues including perceived implications for training, advice to minimise negative effects on training, indemnity and opting out.

In 2012, ASiT published a document outlining recommendations for surgical training and education.<sup>3</sup> In this, concerns were reiterated regarding the impact of regulations on surgical training. Recommendation number four reads:

“Relaxation of the EWTD for surgeons in training, giving the flexibility where required to work more than an average of 48-h per week up to a limit averaging 65-h per week.”

In a letter to the Editor<sup>3</sup> of *The Surgeon [Journal of the Royal Colleges of Surgeons of Edinburgh and Ireland]* in response to Rusius et al,<sup>4</sup> ASiT and BOTA quoted figures from the original EWTD survey in 2009. Comments in this letter included reference to an absence of evidence of improvement in training efficiency to meet reductions in working hours and the increased burden represented by the full-shift pattern of working, removing trainees from day-time consultant activities to cover out-of-hours duties.

A position statement produced by ASiT in 2009<sup>5</sup> made clear our stance in opposition to the rigid enforcement of reductions in working hours regulations, highlighting an implicit 44% reduction in training time, from 32,000 hours to 18,000 hours across an 8-year surgical training period (CST and HST), compounded by the SiMAP and Jaeger rulings. Other issues raised included: a negative impact on patient care and training; under-reporting of hours worked; a desire to opt out in the vast majority (80%); a recommendation to consider on-call working pattern for HSTs where workload permits, in preference to full-shift pattern.

A press release<sup>6</sup> from ASiT and BOTA in November 2009 detailed the main findings of the 2009 survey, including: deterioration in surgical training since implementation; trainees attending while off-duty to protect training (67%) and maintain service quality (84%); poor handover arrangements; high planned opt out rates (67%).

#### **IV. Summary of ASiT position:**

ASiT retains significant concern regarding the impact of WTR on patient care and surgical training. Our evidence suggests that projected benefits to work-life balance and patient safety were neither initially, nor currently forthcoming despite a long period for bedding-in following implementation over four years ago.

ASiT recommends:

1. Relaxation in the regulations in order to permit increase dedicated training time and encouraging a culture of honest working hours reporting.
2. Appropriate remuneration for actual working hours.
3. Consideration of alternative working patterns, including the on-call system, where the workload permits it as an alternative to the full-shift system.

#### **V. References:**

1. Preliminary analysis of ASiT survey 2013. Enclosed as [ASiT\_WTR\_Survey.docx]
2. Fitzgerald JEF, Caesar, BC. The European Working Time Directive: A practical review for surgical trainees. *International Journal of Surgery* 2012; **10**: 399–403
3. Fitzgerald JEF, Giddings CEB, Khera G, Marron CD. Improving the future of surgical training and education: Consensus recommendations from the Association of Surgeons in Training. *International Journal of Surgery* 2012; **10**: 389–392
4. Rusius V, Wall ML, Davies RSM. The European working time directive can have a positive impact on surgical training in the United Kingdom. *The Surgeon* 2010; **8**(4):235.
5. Simpson C, Cottam H, Fitzgerald JEF, Giddings CEB. The European working time directive has a negative impact on surgical training in the UK. *The Surgeon* 2011; **9**:56-7.
6. Cresswell B, Marron C, Hawkins W, Harrison E, Fitzgerald E, von Roon A. Optimising Working Hours to Provide Quality in Training and Patient Safety: A Position Statement by The Association of Surgeons in Training. 2009.
7. Fitzgerald JEF, Marron C, Caesar, BC. Press release: Surgical Trainees Worried as Training Deteriorates Under European Working Time Regulations. 4<sup>th</sup> Nov 2009.