Policy for Medical Staffing; Acting Down and Covering Absent Colleagues

Previously known as: Policy for Medical and Dental Cover for Absent Colleagues

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Purpose of Agreement	This policy outlines the arrangements governing circumstances when consultant medical and dental staff are required to cover for absent colleagues.
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Review Log

Include details of when the document was last reviewed.

Version Number	Review Date	Name of reviewer	Ratification Process	Reason for amendments
1	1 May 2016	L Bicknell	PSG	• Summary of policy added • Date of document review changed, • Reference to Associate Director and Clinical Leads amended to Operational Leads and Clinical directors. • Inserted paragraph on Success Criteria/Monitoring Effectiveness • Updated page numbers
3	July 2020	Deborah Spreadbury	Approved as part of the Covid-19 review of policies	Expiry date extended to March 2021 only
4	December 2020	Emily Bull	BMA, DDNC, PSG, CEG	• Amendment of policy title • Date of document • Extended scope of exclusions • Addition of definitions • Amendment of payment process (section 7)

Summary of Policy

This policy outlines the circumstances when additional payments will be considered for Consultants, Associate Specialists or Specialty Doctors who are acting down or covering for absent colleagues.

The policy defines the process what 'acting down' or 'covering for an absent colleague' is and when payment or compensatory rest should be given along with examples. Appendix A details the amounts payable for medical staffing.

Section 4 refers to exclusions of this policy, which includes junior doctors.

Contents Page

1 INTRODUCTION AND PURPOSE

1.1 This policy outlines the arrangements that exist within Solent NHS Trust when a Consultant, Associate Specialist or Specialty Doctor are required to cover for absent colleagues of the same or lower grades, or to undertake additional work outside of their standard contractual hours.

1.2 The Trust is mindful of the impact of out of hours work on personal lives, the need to support a good work/life balance, and also of individual circumstances of a medic where it may prove more difficult for them to provide additional out of hours cover, and will take all relevant factors into account.

1.3 The aim will be to allow flexibility and reach local agreement with the medic involved in each rota, as far as this is possible whilst still ensuring patient safety. It is essential that there is a Consultant available for each service area 24 hours a day, 365 days a year.

1.4 All Consultants, Associate Specialists or Specialty Doctors on the affected rotas will have the option to contribute equally to additional out of hours cover when required. However, it may be that not all medical staffing are equally able to participate, and it is the responsibility of the medical manager to consult with those involved, take into account individual circumstances and ensure arrangements are acceptable to all parties. No medic will be expected to work outside the terms of their contractual commitment, including their job plan.

1.5 All medical staffing are expected to cover for absent colleagues as far as is practicable, however where this is not possible then alternative cover arrangements will be made, for example through the use of locums.

1.6 Any work undertaken under this policy will not affect normal contractual pay – including on-call or weekend availability allowances.

1.7 Any work undertaken will be covered by NHS Trust indemnity.

2. SCOPE

2.1 This policy applies to all directly employed Consultants, Associate Specialists or Specialty Doctors working within Solent NHS Trust employed on national terms and conditions of service.

3. DEFINITIONS

3.1 **Unplanned, short-term absence and emergency cover:** It is recognised that there are also unexpected sickness and emergency domestic situations which arise from time to time. In such emergencies, a decision will be made as to the most appropriate way in which to provide cover in the short term.

3.2 **'Acting down':** where a doctor is covering more junior staff shifts or on-call duties.

3.3 **'Covering colleagues':** is covering an on-call duty or resident shift for a colleague on the same rota who is unexpectedly absent.

4. EXCLUDED ISSUES

4.1 This policy will not apply under the following circumstances, when:

- additional work is required as a result of a major incident;
- an employee leaves and it is decided not to replace the post, for example as a result of service re-design;
- long term absences, e.g. maternity and paternity leave, secondments, sabbaticals, call-up of military reservists or planned periods of prolonged sickness. In such circumstances, the medical manager should make prospective arrangements to cover the duties until the absent colleague is able to return to work;
- normal cover arrangements apply, e.g. to account for study or annual leave; and
- mutual agreements are made between colleagues to undertake their duties.

5. ROLES & RESPONSIBILITIES

5.1 The **Chief Executive** has ultimate accountability for the strategic and operational management of the organisation, including ensuring that all policies are adhered to.

5.2 The **Chief Medical Officer**, **Operational Leads and Clinical Directors** are responsible for ensuring the requirements of this policy are adhered to.

5.3 All medical employees are responsible for adhering to this policy at all times.

6. THE PROCESS

6.1 The Clinical Director or their deputy will determine which duties need to be covered and how this may be achieved in the most effective and efficient way.

6.2 In all cases this medical manager will make a risk assessment regarding the cover arrangements and to determine whether the individual identified is safe to provide the additional cover - clinically, mentally and physically. If this assessment considers they there is a risk to the individual or patient, for example due to tiredness, if the cover is provided then alternative arrangements must be made.

6.3 If there is a clinical need for another doctor to be called outside of normal hours to provide additional support to the doctor on-call, the duty senior manager should contact other doctors in the specialty to source suitable cover.

6.4 If by undertaking these duties the individual would by mutual agreement be working in excess of the average 48 hours working week determined by the Working Time Regulations, a working time opt out form must be signed.

6.5 If a doctor undertakes cover overnight and adequate rest has not been achieved. In discussion with their line manager they will take the next day off as compensatory rest or amend their shift start times to achieve appropriate rest.

7. PAYMENT

7.1 Appendix A to this policy details the current locally agreed rates. The Appendix will be updated from time to time in line with the percentage pay rise for doctors applied nationally, and as reviewed and agreed at the DDNC.

7.2 A Consultant, Associate Specialist or Specialty Doctor may agree to 'act down' or cover a colleague due to unexpected absence. This would also include situations where the medic on-call is acting down to cover a lower tier of the rota from home.

Where a doctor agrees to cover (either acting down or covering a colleague) they will be compensated as follows:

Non-resident on-call from home:

- Payment of an 'availability' payment per night or per 24-hour period at weekends or bank holidays. Availability payments are set out in Appendix A.
- In addition, for all 'actual work' undertaken (i.e. phone calls, travel, attendance on site(s)) – Paid at hourly rate set out in the Appendix A.
- In addition, they will be given time off in lieu (TOIL) equivalent to the number of hours of 'actual work' done. This should be taken within 6 months.

Covering a shift on site:

- Paid for the whole shift at hourly rate set out in the Appendix A.
- In addition, they will be given TOIL equivalent to the length of the shift worked. This should be taken within 6 months.

The doctor may choose whether they are compensated in pay + TOIL as set out above, or whether they would prefer this all to be converted to TOIL or all to be converted to pay.

For example:

- **Example A**: the doctor has covered a 12-hour resident shift. They can either receive 12 hours of pay at £55 per hour, plus 12 hours of TOIL; OR 24 hours of pay at £55 per hour; OR 24 hours of TOIL.
- **Example B**: the doctor has covered an on-call duty from home and was not disturbed at all. They would receive the 'availability' payment only.
- **Example C**: the doctor has covered an on-call duty from home and undertook 3 hours of actual work during this period. They would receive the 'availability' payment, plus 3 hours of pay, plus 3 hours of TOIL; OR they would receive the 'availability' payment, plus 6 hours of pay; OR they would receive the 'availability' payment, plus 6 hours of TOIL.

Compensatory rest: In addition to the pay and TOIL above, a doctor covering in this way may require compensatory rest the following day. This is the same as compensatory rest that you would receive after working any overnight duty. Unlike your normal rota'd on-call or overnight duties, you cannot plan compensatory rest into the rota for these unexpected extra duties. Compensatory rest is a requirement of the working time regulations to ensure health and safety and stipulates that employees must receive 11-hour rest in a 24-hour period. If the doctor has been resident on-call overnight or covered a shift, they will not be expected to work the next day and can take this time off as compensatory rest. If they have covered an on-call from home and had any disruption after 9pm, they will be entitled to equivalent compensatory rest to match the rest missed the following day. For example, if you cover an on-call from home, and receive 2 phone calls of half an hour each, one at 3am and one at 5am, and are unable to get back to sleep for another hour after each interruption, you should receive 3 hours compensatory rest. You must agree with your manager when this will be taken – if it has meant you are too tired to work the next day, then you will take this immediately - i.e. you take 3 hours off the next morning.

Every attempt should be made not to disrupt the service. It is the responsibility of the service manager / department to provide or cancel the clinical activity the next day and not the doctor who has acted down or covered a colleague.

Where the doctor considers it not practical to take the following day off as compensatory rest and feels safe to provide the clinical activity then they may do so. In this case compensatory rest should be taken as soon as is reasonably practical and in any case within 7 days of the cover undertaken. The point at which compensatory rest is taken should be agreed between the doctor and the Manager, preferably at the point the request to act down/cover is made. However, in all cases it is the responsibility of the doctor to determine for themselves their fitness to work safely immediately after a period of acting down.

8. TRAINING

8.1 No training is required in order to implement this policy

9. EQUALITY IMPACT ASSESSMENT AND MENTAL CAPACITY

9.1 Solent NHS Trust is committed to treating people fairly and equitably regardless of their age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation. An equality impact assessment has been carried out for this policy, which is attached at appendix B, and no significant issues have been identified.

8.1 This policy has also been assessed and meets the requirements of the Mental Capacity Act 2005.

10. SUCCESS CRITERIA/MONITORING EFFECTIVENESS

10.1 The effectiveness of this policy will be monitored via the payroll and the number of locums being employed.

11. REVIEW

11.1 This policy has been subject to consultation with the Doctors and Dentists Negotiating Committee (DDNC). It may be reviewed at any time at the request of either staff side or management but will automatically be reviewed after 3 years or as required following any amendments to national guidance.

12. REFERENCES

Terms and conditions of service specialty doctors – England (2008)
Terms and Conditions for Consultants (England) 2003 as amended.

Appendix A - LOCALLY AGREED RATES OF PAY

The rates of pay would be uplifted in line with the NHS inflator for medical staff every year following review and agreement at the Doctors and Dentists Negotiating Committee.

Availability payment for Non-resident on-call from home duties:

- £210 per night
  or
- £630 per 24-hour period at weekends or bank holidays.

Actual Work carried out payment:

- **Consultants:** £55 per hour
- **Associate Specialists:** £55 per hour (if carrying out Consultant absence)
- **Speciality Doctors:** £55 per hour (if carrying out Consultant absence)

Appendix B - EQUALITY ANALYSIS AND EQUALITY IMPACT ASSESSMENT

Equality Analysis and Equality Impact Assessment

Equality Analysis is a way of considering the potential impact on different groups protected from discrimination by the Equality Act 2010. It is a legal requirement that places a duty on public sector organisations (The Public Sector Equality Duty) to integrate consideration of Equality, Diversity and Inclusion into their day-to-day business. The Equality Duty has 3 aims, it requires public bodies to have due regard to the need to:

- **eliminate unlawful discrimination**, harassment, victimisation and other conduct prohibited by the Equality Act of 2010;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not;
- **foster good relations** between people who share a protected characteristic and people who do not.

Equality Impact Assessment (EIA) is a tool for examining the main functions and policies of an organisation to see whether they have the potential to affect people differently. Their purpose is to identify and address existing or potential inequalities, resulting from policy and practice development. Ideally, EIAs should cover all the strands of diversity and Inclusion. It will help us better understand its functions and the way decisions are made by:

- **considering the current situation**
- **deciding the aims and intended outcomes of a function or policy**
- **considering what evidence there is to support the decision and identifying any gaps**
- **ensuring it is an informed decision**

Equality Impact Assessment (EIA) *see supporting guidance on pg 3*

Step 1: Scoping and Identifying the Aims		
Service Line / Department	People Services / HR Consultancy	
Title of Change:		
What are you completing this EIA for? (Please select):	Policy	*(If other please specify here)*
What are the main aims / objectives of the changes	Incorporate NHSI guidance, just culture principles, person centred approach, Separate policy and SOP.	

Step 2: Assessing the Impact

Please use the drop-down feature to detail any positive or negative impacts of this document /policy on patients in the drop-down box below:

Protected Characteristic	Positive Impact(s)	Negative Impact(s)	Action to address negative impact: *(e.g. adjustment to the policy)*
Sex	Y		
Gender reassignment	Y		
Disability	Y		
Age	Y		
Sexual Orientation	Y		
Pregnancy and maternity	Y		
Marriage and civil partnership	Y		
Religion or belief	Y		
Race	Y		

If you answer yes to any of the following, you MUST complete the evidence column explaining what information you have considered which has led you to reach this decision.

Assessment Questions	Yes / No	Please document evidence / any mitigations
In consideration of your document development, did you consult with others, for example, external organisations, service users, carers or other voluntary sector groups?)	Yes	Internal stakeholders – including managers, employees (via network resource groups), Occupational Health, Unions.
Have you taken into consideration any regulations, professional standards?	Yes	NHSI recommendations
In drafting your document have you identified any discrimination issues, and if so how have they been mitigated?	No	

Step 3: Review, Risk and Action Plans			
How would you rate the overall level of impact / risk to the organisation?	Low	Medium	High
	■	☐	☐
What action needs to be taken to reduce or eliminate the negative impact?	Fair and consistent application of policy		
Who will be responsible for monitoring and regular review of the document / policy?	HR Consultancy		

Step 4: Authorisation and sign off

I am satisfied that all available evidence has been accurately assessed for any potential impact on patients and groups with protected characteristics in the scope of this project / change / policy / procedure / practice / activity. Mitigation, where appropriate has been identified and dealt with accordingly.

Equality Assessor:	*Emily Bull*	*Date:*	*04/02/2021*

Additional guidance

Protected characteristic		Who to Consider	Example issues to consider	Further guidance
1.	**Disability**	A person has a disability if they have a physical or mental impairment which has a substantial and long term effect on that person's ability to carry out normal day today activities. Includes mobility, sight, speech and language, mental health, HIV, multiple sclerosis, cancer	• Accessibility • Communication formats (visual & auditory) • Reasonable adjustments. • Vulnerable to harassment and hate crime.	Further guidance can be sought from: Solent Disability Resource Group
2.	**Sex**	A man or woman	• Caring responsibilities • Domestic Violence • Equal pay • Under (over) representation	Further guidance can be sought from: Solent HR Team
3	**Race**	Refers to an individual or group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.	• Communication • Language • Cultural traditions • Customs • Harassment and hate crime • "Romany Gypsies and Irish Travellers", are protected from discrimination under the 'Race' protected characteristic	Further guidance can be sought from: BAME Resource Group
4	**Age**	Refers to a person belonging to a particular age range of ages (eg, 18-30 year olds) Equality Act legislation defines age as 18 years and above	• Assumptions based on the age range • Capabilities & experience • Access to services technology skills/knowledge	Further guidance can be sought from: Solent HR Team
5	**Gender Reassignment**	" The expression of gender characteristics that are not stereotypically associated with ones sex at birth" World Professional Association Transgender Health 2011	• Tran's people should be accommodated according to their presentation, the way they dress, the name or pronouns that they currently use.	Further guidance can be sought from: Solent LGBT+ Resource Group
6	**Sexual Orientation**	Whether a person's attraction is towards their own sex, the opposite sex or both sexes.	• Lifestyle • Family • Partners • Vulnerable to harassment and hate crime	Further guidance can be sought from: Solent LGBT+ Resource Group
7	**Religion and/or belief**	Religion has the meaning usually given to it but belief includes religious and philosophical beliefs, including lack of belief (e.g Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition. (Excludes political beliefs)	• Disrespect and lack of awareness • Religious significance dates/events • Space for worship or reflection	Further guidance can be sought from: Solent Multi-Faith Resource Group Solent Chaplain
8	**Marriage**	Marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples under English law.	• Pensions • Childcare • Flexible working • Adoption leave	Further guidance can be sought from: Solent HR Team
9	**Pregnancy and Maternity**	Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In non-work context, protection against maternity discrimination is for 26 weeks after giving birth.	• Employment rights during pregnancy and post pregnancy • Treating a woman unfavourably because she is breastfeeding • Childcare responsibilities • Flexibility	Further guidance can be sought from: Solent HR team