# Medical and Dental Consultants Policy for Covering for Absent Junior Colleagues ("Acting Down")

| | | | |
|---|---|---|---|
| **Author with contact details** | Business HR | | |
| **Lead Executive/ Senior Manager** | Jim Gardener, Chief Medical Officer | | |
| **Version:** | 4 | | |
| **Ratified by:** | Local Negotiation Committee | | |
| **Ratification Date:** | December 2022 | **Review Date:** | October 2023 |
| **Consultation** | HR Policy Group | **Applicable to:** | All staff<br>All sites |
| **Equality, Diversity And Human Right Statement** | The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This procedure should be implemented with due regard to this commitment. | | |
| **To be read in conjunction with / Associated Documents:** | | **Information Classification Label** | ☐ **Unclassified** |
| **Access to Information** | To access this document in another language or format please contact the policy author. | | |

**Document Change History (changes from previous issues of policy (if appropriate):**

| Version number | Page | Changes made with rationale and impact on practice | Date |
|---|---|---|---|
| **1** | All | Initial Draft | Sept 2022 |
| **2** | All | Circulated draft | Oct 2022 |
| **3** | All | LNC comments | Nov 2022 |
| **4** | All | Final version for sign off | Dec 2022 |

## Contents

# 1. Introduction

The Trust recognises that under their current terms and conditions of service consultants are not contractually obliged to 'act down' or to be compulsorily resident on-call to cover the duties of more junior medical staff, except in the most *extraordinary and unforeseeable circumstances*.

It is recognised that in 'acting down' by performing duties of a more junior colleague, a consultant cannot forget that they are a consultant and as such are in fact providing resident consultant level care.

Underpinning the whole of this policy is a desire to avoid implementing this system unless absolutely necessary. The policy should only be invoked when there is no alternative safe system to provide on-site medical support for patients (excluding when a major incident has been declared, in which case the relevant policy will apply).

***The principles outlined in this policy also apply to all SAS doctors. Where is says consultants, it could also read SAS doctors. Where it says 'locum' it means filling gaps in rotas.***
The aim of this policy is therefore to:

- Outline the actions that should be taken to minimise the need for consultants to cover absent junior colleagues.
- Agree the arrangements for requesting a consultant to cover absent junior colleagues.
- Outline the remuneration/compensation arrangements for individuals who do cover absent junior colleagues

# 2. Measures to Avoid Acting Down

2.1 Consultants may be requested to 'act down' due to a shortage or absence of junior staff. Most of such absences or shortages are known well in advance. Doctors are required to give a minimum of six weeks' notice of any requested leave and internal cover should be arranged, co-ordinated by the rota master/Clinical Director to assure that safe levels of cover are provided. The majority of junior doctors now participate in rotas which contractually require them to prospectively cover the annual leave and study leave of their colleagues who participate in the same rota. Rota masters or designated deputies should ensure that they have arrangements in place for the management of these rotas. There should also be a mechanism for identifying at the earliest opportunity any problems whereby 'locum' cover may be necessary. Where the need for 'locum' cover is identified and agreed this should be conveyed to the Medical Roster team.

2.2 Where a doctor requests a period of leave for which a locum is required giving less than six weeks' notice, this should be discussed with the Rota Master/Clinical Director or designated deputy and unless there are exceptional circumstances, any approval of the leave should be conditional upon being able to find appropriate cover. Consultants other than the Rota Master/Clinical Director should not normally approve requests for this type of exceptional leave and understanding should be applied when the leave is unforeseeable e.g. bereavement/funeral/family sickness.

2.3 From time-to-time certain specialties encounter difficulties in recruiting to their agreed quota of junior doctor posts. Rota masters/Clinical Directors should again ensure that

mechanisms are in place to identify potential problems at the earliest opportunity enlisting the support and advice of Medical Staffing to try and make temporary arrangements for cover with either NHS or Agency locum medical staff.

2.4 Although the majority of leave can be planned well in advance, there will be occasions where absences occur at very short notice because of unforeseen circumstances such as sickness, domestic crisis, or the failure of a planned locum to arrive. Inevitably absences occurring in these situations are much more difficult to manage. There are, however, certain measures, which can be put in place to assist in the management of these situations:

- Each rota master/management team should have a clear written plan for organising cover. It should not be the responsibility of the medical team. This will make expedient arrangements much easier. It is useful to test/practice these processes when they are not needed.

- Divisions should ensure that junior doctors are fully aware of the procedures for reporting sickness absence and the person they should report to. The need for absence should be reported at the earliest opportunity. If locum cover is required, the appropriate consultant should be informed of the position and be advised of the attempts being made to find cover. This then maximises the amount of time that the Rota-master/Clinical Director, with the assistance of the Medical Roster team, have to find appropriate locum cover if necessary. In this situation, the appropriate consultant should be informed of the position and advised of the attempts being made to find cover. This allows the consultant the maximum notification of a potential problem allowing them to start to form contingency plans.

- It may be possible for other junior doctors in the hospital to provide locum cover however, this arrangement should only be used to cover short term unforeseeable absences. It must be recognised that these duties are outside the contractual hours of the doctor and this work can only be scheduled with agreement of the junior doctor. If agreed payment in line with the LUHFT rate card can be claimed. It must also be recognised that such an arrangement has implications for trainee doctors' hours of duty which are subject to certain restrictions by their terms and conditions of service. Thus, the arrangement should only be utilised when other measures to cover the shift with a junior doctor have been exhausted or there is insufficient time to implement other methods of providing cover.

2.5 The failure of a locum to turn up is often discovered outside of the normal 9am–5pm Monday to Friday hours. There may also be other absences which are notified outside of normal hours, for example the junior doctor who is due to commence his or her on-call duties at 9am on Saturday morning but falls ill during Friday night. These are by far the most difficult situations in which to find alternative cover. In this situation the on-call consultant for the Specialty concerned should be informed at the earliest opportunity and their advice sought. It is the responsibility of the on-call manager or night manager, not the on-call consultant to obtain suitable locum medical cover. It is very important that junior doctors who are tired should not be pressurised into providing cover. Everyone should endeavour to work together to provide the best care possible.

## 3. Reporting and Frequency

Every episode of consultants acting down will be notified to the Chief People Officer/Chief Medical Officer or deputies via the Datix system. This information will be collated via speciality/area and a workforce review will be offered to the Clinical Director to be conducted by the division with the support of the HR team. A summary of this data will also be presented at the Joint Local Negotiating Committee (JLNC).

## 4. Procedures for Requesting a consultant to Act Down

It will be the responsibility of the Executive on-call or the senior site manager on-call to request a consultant to act down. However, as noted this is not a contractual requirement and may not always be practicable. In these circumstances, discussions within the wider clinical team can be arranged to provide cover.

4.1 Only where there is no alternative safe system to provide on-site medical support for patients, and excluding a major incident, will a consultant be requested to act down. This request and authorisation should be confirmed in writing/email following discussion.

4.2 It is recognised that that the Consultant on-call for the specialty concerned is the ultimate judge of whether a department can continue to operate safely. However, any decision to close a department must take account of the implications for patients, staff, any knock-on effect for other specialties and any effect for other Trusts, together with an assessment by the Consultant of his/her own ability to provide safe cover. If the impact or risk of closing a department is greater than keeping the department open, then it cannot be closed but this policy recognises that decisions of this type are rarely simple black/white or yes/no and there may be a range of decisions. Consensus should be sought by all involved. If potential problems are identified during normal working hours and an alternative being considered is the closure of the department this must be discussed initially with the on-call Manager and through her/him with the on-call Executive and/or Chief Medical Officer.

4.3 Consultant staff will not be requested to act down unless it is as the result of an unforeseen event, the alternative to which is the closure of the department which would put the well-being of patients at significant risk. If any Consultant does not believe they can safely ‘act down’ or that it is not practicable they must speak to their colleagues and/or the Chief Medical Officer to make alternative arrangements and a record will be made.

4.4 Where a consultant agrees to act down to cover a junior and is on call, the senior manager should request that a second consultant is found to cover the first consultant’s on-call. Any decision not to provide additional staffing must be risk assessed and agreed with the acting down consultant. This cover provided by the

second consultant is additional to their contracted hours, and if undertaken will be remunerated as per the Trust Rate Card.

# 5. Remuneration and Compensation for Acting Down

5.1 **Where a consultant acts down, they will be remunerated as per the agreed LUHFT rate card at the extra-contractual rate AND** the consultant will receive time off in lieu (TOIL) for this period. TOIL will be calculated at the rate of one PA for 2 hours resident on duty (for unsocial hours between 7pm and 7am or at the weekend). If they wish to only receive TOIL instead of pay, it will be given at one PA for every hour worked. This time should be taken within 6 months of the period on-call and should be agreed with the Clinical Director to ensure appropriate cover is in place.

5.2 **Following a period of acting down the consultant must obtain the appropriate form from medical staffing and submit the completed form** and confirmation of approval to the Site Medical Director (see attached form). The Site Medical Director will require the Clinical Director concerned to produce a brief report as to why the acting down was necessary and what measures were taken to avoid it. The Chair of the LNC should also be informed of the need to request a consultant to act down.

5.3 **Compensatory Rest**

Following a period of full shift/resident on-call/acting down, consultants will not normally be expected to work the next day and should take this time off as compensatory rest., ensuring that there is a minimum of 11 hours rest before they are next scheduled to work. If this requires cancellation or cover of activity there will be no requirement to undertake this activity at a later date. The arrangements should be agreed between the consultant and the Clinical Director.

**5.4 Review of Policy**

It is intended to implement this policy for a period of one year. It will be subject to review in October 2023.

# 6. Exceptions

No exceptions.

# 7. Appendices

## Appendix 1:

**ACTING DOWN BY CONSULTANT MEDICAL AND DENTAL STAFF**

This form should be completed whenever a Consultant has been in a position whereby they have needed to undertake duties which should have been performed by trainees/non-Consultant Career Grade Staff.

| NAME | SPECIALTY |
|---|---|

| DATE(S)<br><br>TIME OF DUTIES UNDERTAKEN |
|---|

| NUMBER OF HOURS ACTING DOWN<br><br>REASON<br><br>NATURE OF DUTIES |
|---|
| |
| |
| NAME AND GRADE OR PERSON UNAVAILABLE<br>(i.e. person whose duties are being covered) |
| |

WERE YOU DUE TO BE ON CALL DURING THIS PERIOD? YES NO

WERE ATTEMPTS MADE TO FIND A LOCUM? YES NO

| DETAILS FROM MEDICAL STAFFING ON ATTEMPTS MADE |
|---|

| OTHER STAFF ON CALL DURING THE PERIOD |
|---|

| ARRANGEMENTS MADE FOR REMUNERATION/TIME OFF IN LIEU |
|---|

Consultant Signature ..... Print Name .....

Executive on-call ..... Print Name .....

Site Medical Director .....

Has the event been logged on DATIX? YES/NO Please give the date: