**Example One**

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

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. As such, underpinning the whole of this protocol is the desire to avoid implementing this system wherever possible. The protocol should only be invoked when there is no alternative safe system to provide on-site medical support for patients, and excludes a declared major incident.

***The principles outlined in this protocol also apply to Associate Specialist.***

The aim of this protocol is therefore to:

* Outline the actions that should be taken to minimise the need for consultants to act down
* Agree the arrangements for requesting a Consultant to act down
* Outline the remuneration/compensation arrangements for individuals who do act down.

**2. Measures to Avoid Acting Down**

* 1. Consultants are usually requested to act down due to a shortage or absence

of junior staff. The majority 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 is arranged, co-ordinated by the SDU Director to assure adequate 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. SDU Directors 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 Medical Staffing.

* 1. 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 SDU Director or designated deputy and any approval of the leave should be conditional upon being able to find appropriate cover. Consultants other than the SDU Director or designated deputy must not approve requests for leave.

2.3 From time to time certain specialties encounter difficulties in recruiting to their

agreed quota of junior doctor posts. SDU 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 contend with. There are, however, certain measures, which can be put in place to assist in the management of these situations. 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 to 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 SDU Director/General Manager, with the assistance of Medical Staffing, 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 him or her 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 concerned and remuneration at the NHS locum rate 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 measure 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 9.00

a.m. – 5.00 p.m. 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 9.00 a.m. 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, however, the on-call Consultant would be expected to support the on-call manager as appropriate in their endeavours.

**3. Frequency**

If more than two episodes of consultants acting down occur within a 6 month period within a single speciality, this will be notified to the HR Director or deputy and a workforce review will be offered to the SDU to be conducted by the division with the support of the HR team.

**4. Procedures for Requesting a Consultant to Act Down**

It will be the responsibility of the SDU Director or General Manager to request a Consultant to act down or the senior manager on-call.

4.1 Only where there is no alternative safe system to provide on-site medical support for patients, and excluding a major incident, will the SDU Director, General Manager or Senior Manager on-call request a consultant to act down. This request and authorisation should be confirmed in writing/email.

4.2 It is recognised 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. 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 him/her with the on-call Director and/or Medical Director.

4.3 Consultant staff will not be required 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. In this situation the consultant-in-charge recognises that he/she has the legal responsibility for a patient admitted under their care or the delegated responsibility for the patient admitted to the care of Consultant colleagues if participating in an on-call rota. If any Consultant does not believe they can safely ‘act down’ they must speak to their colleagues and/or the Medical Director 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 SDU can request that a second consultant is found to cover the first consultant’s on-call. However, this must be justified. The second consultant will be remunerated at prevailing internal Trust locum rates.

**5. Remuneration and Compensation for Acting Down**

5.1 Where a consultant acts down for a period between 19.00 and 07.00 or at a weekend (unless this forms part of his/her standard sessional commitment) and is required to either be resident on-call or participates in a shift system he/she will be remunerated at the rate of two PAs (at their personal PA rate) for every one PA on duty (one programmed activity equates to 3 hours between 19.00 and 07.00 or at weekends). Alternatively, the Consultant may request time off in lieu for this period. Time will be calculated at the rate of two Pas for each PA on duty. This time should be taken within 6 months of the period on-call and should be agreed with the SDU Director in order 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 Medical Director (see attached form). The Medical Director will require the SDU 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 JCNC (formerly LNC) should also be informed of the need to request a consultant to act down.

5.3 Compensatory Rest

Following a period of resident on-call, Consultants will not normally be expected to work the next day and may take this time off as compensatory rest. Every attempt should be made not to disrupt the service and where the Consultant considers it not practical to take the following day off as compensatory rest this should be taken within 7 days of the period on-call. The compensatory rest will be equal to the number of hours undertaken as “resident on-call” up to a maximum of 1 working day. This should be agreed between the Consultant and the SDU Director.

5.4 Review of Protocol

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

**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)  TIME OF DUTIES UNDERTAKEN |

|  |
| --- |
| NUMBER OF HOURS RESIDENT IN THE HOSPITAL  REASON  NATURE OF DUTIES |

|  |
| --- |
| NAME AND GRADE OR PERSON UNAVAILABLE  (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 ............................................

SDU Director ........................................................ Print Name .............................................

Medical Director ............................

Example Two

AGREEMENT

**BETWEEN**

**NHS TRUST**

**AND**

**THE MEDICAL STAFF NEGOTIATING SUBCOMMITTEE STAFF SIDE**

Arrangements for senior medical staff required to act down/be resident on call

**This hospital values the significant contribution that senior medical staff make to the effective provision of patient care whilst performing on-call duties. In recent years some consultants have been asked, in exceptional circumstances, to cover absence of middle grade junior staff (StR/SpR) on call for emergencies, usually through lack of availability of locum cover. It is however recognised that it is part of the contractual duties of StR/SpRs to provide cover in most circumstances and they may there be asked to come in to provide such cover, whilst taking account of their next day commitments.**

**This agreement sets out the arrangements for ensuring that senior medical staff are not disadvantaged or placed under undue pressure by these circumstances and sets out the compensation. The agreement will come into operation on 1 May 2003.**

* **When there are no middle grade junior medical staff (StR/SpR) available to carry out emergency on call duties, the consultant on call must discuss the situation with the senior manager in order to ensure that all avenues to obtain cover at this level have been pursued. It will normally also be necessary to provide additional medical cover whilst the consultant is providing this cover.**
* **Senior medical staff, who feel they no longer have the expertise to fulfil the duties of resident junior medical staff (StR/SpR), must recognise this limit of their professional competence as recommended by the GMC and inform the manager of this fact, and jointly decide on the best course to follow.**
* **For the period of cover/resident on call including travelling time senior medical staff will be entitled to time in lieu, as well as to payment at the standard sessional rate.**
* **In order to ensure patient safety the next day commitments of the senior consultant, who has been acting down/resident on call, will be reviewed**

**\*If agreement in relation to time in lieu or payment cannot be mutually reached between the individual and the Director of Operations and Clinical Director, then the individual can raise the issue with the Trust Medical Director to seek resolution. In the unlikely event that agreement still cannot be reached the individual may raise the issue through the Hospital’s formal Grievance Procedure.**

**This Hospital undertakes to minimise the necessity for senior medical staff to undertake such duties.**

**This agreement can be terminated or renegotiated by either management or staff representatives giving 6 months written notice to the other party.**

**The agreement – effective from 1 May 2003 – will now constitute part of the relevant staff contracts of employment and staff will be informed of this accordingly.**

**Signed ……………………………….. Signed ……………………………..**

**Management Chair Staff Vice Chair**

**Date ……………… Date ………………**

**Example Three**

**CONSULTANT MEDICAL AND DENTAL STAFF** including Associate Specialists and Specialty Doctors

# Background

There is no provision, within the standard Consultant or SAS contracts, to provide for compulsory residency when on-call out of hours. However, in **rare** circumstances, involving problems with junior medical/dental staff absence/vacancies, Consultants have ‘acted down’ and provided a **resident** on-call service.

The Trust makes every reasonable effort to obtain locum cover for unexpected absences among junior medical/dental staff and hence it is anticipated that the requirement for a Consultant to undertake resident duties will be extremely rare.

# Effect on Job Planning

The procedure, set out below, provides details of remuneration and time off arrangements. As it is anticipated that the occasions when this procedure will need to be invoked will be **‘exceptional’**, any hours worked should NOT be included in average working hours for the purposes of job planning. **If part of the cover period is within the consultant’s normal hours, then no payment will be claimable for this period. In cases of dispute about what periods are payable and what are not, the MD will be the final arbitrator.**

# Procedure

If this service is deemed necessary in the future, the following procedure will apply:-

1. The Consultant will be requested to provide resident cover by the relevant Clinical Director or Divisional Manager or in out of hours the Executive Director on call.
2. The resident on-call Consultant will receive a payment of 0.5 PAs/NHD per 1 hour resident on call.
3. Time off in lieu will be given in addition for periods of residency between 1900 and 0700 only.
4. Locum cover will be provided, when necessary, in order to cover the time off in lieu and this will be arranged by the Lead Clinician, in conjunction with the Divisional Manager.
5. A Consultant who may be required to cover the ‘on-call’ duty of the resident on-call Consultant will receive payment at the rate of one programmed activity for the whole of the period.
6. Claims for payment must be authorised by the relevant Clinical Director and forwarded to the Divisional Manager.
7. The Medical Staffing Co-Coordinators should keep a record of the number of occasions this occurs and should be monitored over a period of 6 months. If there is evidence of this becoming a regular occurrence there may need to be a revision of job plans.

**Example Four**

# Acting Down Procedure for Speciality Doctors Covering Out of Hours Duties for Training Grades

# summary

This procedure sets out the conditions under which additional payments will be paid where a Specialty Doctor, normally as a result of an emergency or crisis, is asked to undertake duties usually performed by a doctor in Training or Staff and Associate Specialists doctor for duties performed out of hours.

This procedure includes those doctors who have chosen to remain on the Pre 2008 Speciality Doctor Contract. (Associate Specialist and Staff Grade).

# 1. iNTRODUCTION

This procedure sets out the conditions under which additional payments will be paid where a Speciality Doctor, normally as a result of an emergency or crisis, is asked to undertake duties usually performed by a doctor in Training or Specialty and Associate Specialist (SAS) doctor for duties performed out of hours. It should be noted that during normal working hours, prospective cover applies to all doctors unless specified otherwise in their job plans and contracts of employment.

This procedure does not apply to duties which a Speciality Doctor undertakes as part of their normal workload and job plan.

Under Terms and Conditions of Service “acting down” is in this way by Speciality Doctors is not compulsory.

# 

# purpose of the document

To provide clear guidance to the process to paid Specialty Doctor Medical and Dental staff who ‘Act Down’ to a lower grade as a result of an emergency or crisis.

# 3. definition of terms used / abbreviations

**Medical and Dental Grades**

**SAS – Staff and Associate Specialist**

Staff Grade

Speciality Doctor

Associate Specialist

Clinical Assistant

**Training Grades**

Foundation Year 1 & 2

Core Trainees Year 1 & 2

Specialty Trainees Years 1 to 6

Trust Registrar or Senior House Officer

**JLNC** – Joint Local Negotiating Committee

**PA** – Programmed Activity

# 4. scope

This procedure applies to all Specialty Doctor Medical and Dental staff who are employed by the Trust, whether whole or part-time.

# 5. duties (roles & responsibilities)

## 5.1 CEO / Board Responsibilities

The Chief Executive is ultimately responsible for this procedure and will delegate the day to day responsibilities for this procedure to the Medical Director /Human Resources Director.

## 5.2 Clinical Director / Line Manager Responsibilities

The responsibility for agreeing Acting Down and payment of duties covered is with the appropriate Clinical Director, Associate Medical Director, Divisional General Manager and or Business Manager.

## 5.3 Staff Responsibility

To follow the procedure and work flexibility with the Trust to ensure clinical services have the appropriate staffing at all times.

# 6. procedure

**6.1 Application**

Initially the Trust will endeavour to secure alternative cover for Training Grade or SAS doctors from the internal locum bank or the absent doctor’s colleagues or finally external locum agencies under the Buying Solutions contract. This procedure will therefore only be invoked if such alternative cover is unavailable or once the Trust’s cover arrangements have been exhausted.

The request to ask a Specialty Doctor to act down will normally be made by the relevant, Associate Medical Director, Clinical Director, Lead Consultant, Divisional General Manager and or Business Manager on-call who should be satisfied that cover by other grades of medical staff is not possible.

It is the responsibility of the Clinical Director, in discussion with the Lead Consultant or the Business Manager for that specialty, to decide whether or not the department concerned can continue to operate safely. It is recognised that a decision to close or restrict the work of a department must take account of the implications for the patients and staff concerned. Where such a decision is required the Clinical Director or Lead Consultant will communicate with the Executive Director on call. The decision will be recorded in writing in the form of an incident report.

Where a Specialty Doctor agrees to act down to cover a Training Grade doctor or SAS specialty to provide further Specialty Doctor cover as necessary. Only if the Specialty Doctor who agrees to act down is confident that they could cover both roles, can this requirement be waived.

**6.2. Remuneration and Compensation for Acting Down**

When a Specialty Doctor acts down for a period between 7pm and 7am weekdays or at any time over a weekend the Specialty Doctor **may** request financial remuneration at a rate of one additional PA per three hours on-call, providing that the Specialty Doctor is resident in the hospital during this period. The rate of pay will be at the normal pay threshold for the Specialty Doctor involved. Rates of pay for covering colleagues during working hours are included in the Trust policy on ‘Covering Absent Colleagues and Vacant Posts’.

If the Specialty Doctor Acting Down is not required to be resident on call they will be paid at a rate of 1PA for being on-call between 7pm and 7am on weekdays and at a rate of 2PA’S for every 24hours cover at weekends. In the event of being called into the hospital, the rate of pay specified above will apply.

After undertaking a period of acting down between 7pm and 7am on weekdays or over Saturday or Sunday, a compensatory rest period in lieu will be granted in line with the Trusts’ Working Time Agreement for Specialty Doctor Medical Staff.

The 2nd Specialty Doctor who is asked to provide cover will be paid at a rate of 1 PA for cover between 7pm and 7am on weekdays or at a rate of 2 PAs for every 24 hours cover at weekends. Any requirement to come into the hospital during these periods will be paid according to the Trust policy on covering for Vacant Posts and Absent Specialty Doctor colleagues.

If it is considered safe for Specialty Doctors acting down to be on call from home in specialties where it is not necessary to have first on-call resident Training Grades, (e.g. ophthalmology), a compensatory rest period in lieu will be granted in line with the Trusts’ Working Time Agreement for Specialty Doctor Medical Staff. In these circumstances the Specialty Doctor will be paid at a rate of 1 PA for every 3 hours worked only in the event of being called into the Hospital.

Following a period of acting down, the Specialty Doctor must complete the appropriate claim form and have the completed form countersigned by their Clinical Director or Business Manager. The Business Manager will submit the form to payroll for payment.

**7. REVIEW**

This policy will be reviewed in 3 years time under the guidance of the JLNC.

# process for Monitoring compliance with policy / procedure

Monitoring of this procedure will take place within Clinical Divisions by the Business Manager and Clinical Director and by the Local Negotiating Committee.