

On Call Agreement for Agenda for Change Staff - Trust Policy

Reference Number POL- HR/2647-204/2018	Version:5	Status Final	Author: Jo Jackson Job Title Director People Services	
Version / Amendment History	Version	Date	Author	Reason
	5	June 24	Jo Jackson	Review - Approval at ROC
Intended Recipients: All staff covering on-call				
Training and Dissemination: How will you implement the policy, cascade the information and address training				
To be read in conjunction with: State the name(s) of any other relevant policies: / procedure				
In consultation with and Date: State which groups you have consulted with and when. Give names in full followed by abbreviations e.g. Medical Advisory Committee (MAC)				
EIRA stage One	Completed	<i>Yes / No</i>	<i>Delete as appropriate</i>	
stage Two	Completed	<i>Yes / No</i>	<i>Delete as appropriate</i>	
Approving Body and Date Approved			TDG	
Date of Issue			3/6/2024	
Review Date and Frequency			June 2027	
Contact for Review			Director of People Services	
Executive Lead Signature			Executive Chief People Officer	

On-Call Agreement for Agenda for Change Staff

1. Introduction:

This agreement sets out the terms and conditions for all on-call arrangements for Agenda for Change colleagues employed by University Hospitals of Derby & Burton NHSFT. This agreement will replace all legacy on-call policies in existence from 1st April 2024 and a six-month transition period will take place from 1st April 2024 in line with the Trust's Pay Protection policy. This agreement is not applicable to colleagues that are members of the Trusts Director On-Call Rota.

2. Definitions of On-call

Commitment Payment	Payment received for being available to undertake on call duties, based on the number of periods of on-call allocated during each rota period. The calculation of the monthly percentage payment is based on the percentage of the annual salary, divided by 12 to equal the monthly payment. The same payment will be paid each month regardless of the number of days in that calendar month unless changes are made to the percentage received.
Compensatory Rest	Rest taken later, ideally during the same or following working day or within 14 calendar days, to compensate for an interrupted statutory rest break.
Daily Rest	The break between working days in accordance with the Working Time Regulations. An employee should receive 11 hours rest between shifts.
Frequency of On-Call	The number of on-call periods allocated to an individual in each rota period.
Frequency Periods	The on-call period in each week should be divided into nine periods (five per weeknight and two each for Saturday and Sunday. These would typically be between 10-13 hours in length as appropriate for the needs of the service. There are 2 frequency periods within a Public Holiday covering day and night. Each of these frequency periods, is seen as being 12 hours in length.
Fundamental Changes	A change of establishment, for example, due to vacancy freeze or planned increase/reduction in headcount.
On-Call Arrangement	A contractual arrangement between the employer and

employee for the employee to be available to undertake on-call duties, either at the workplace, at home or elsewhere, and to work as and when required.

On-Call Work	Work of an urgent or emergency nature which arises outside departmental normal working hours.
Normal Individual Working Hours	Hours which are regularly worked by a colleague as part of their contractual hours.
Normal Department Working Hours	Hours within which the department/service provides its usual services.
Overtime	Defined by Agenda for Change Terms and Conditions of Service Section 3. This On-Call agreement does not incorporate any agreement for guaranteed overtime.
Public Holiday	Defined as 00:00 – 23:59.
Superficial Changes	A short-term gap in the rota due to sickness, annual leave, or job vacancy.
Time off in Lieu (TOIL)	Time given back to a colleague as based on basic pay.
Unsocial Hours	Defined by Agenda for Change Terms and Conditions of Service Section 2.
Week	Monday – Sunday.
Working Time	Time spent working including travel time. Time spent sleeping (either at home or in Trust accommodation at the employee's request) whilst being available for work as part of an on-call arrangement is not working time.

3. Availability for On-Call

3.1 Availability

This relates to where a person is rostered to be on-call and is available to carry out emergency work, as required. A payment will be paid for the colleague being available to be on-call as per table 1 below. For colleagues working on a rota of less than 1 in 12 frequency set rates apply. A rota is any recognised formal arrangement for any group of colleagues to undertake on call duties.

Table 1

Frequency (per rota)	Percentage of basic pay
1 in 3 or more frequent	9.5%
1 in 6 or more but less than 1 in 3	4.5%
1 in 9 or more but less than 1 in 6	3%

1 in 12 or more but less than 1 in 9	2%
Less frequent than 1 in 12	1%

The on-call period in each week should be divided into nine periods (five per weeknight and two each for Saturday and Sunday). Each period would typically be between 10 - 13 hours in length as appropriate for the needs of the service. If an on-call period is split between more than one individual, then the commitment payment is split pro-rata. Frequency payments will not be adjusted for any weeks containing statutory holidays.

This commitment payment is calculated based on the average number of periods a colleague works over a recognised rota period (typically four weeks). This should be based on a working week and not include any days where the colleague is on leave.

Where the service requires only part of the week to be covered with on-call then the frequency will still be calculated using the nine periods. For example, a service only requiring Saturday and Sunday cover (four periods) with an individual working on-call for 1 period would attract the frequency payment of 1:9 and not 1:4.

Payments received by an individual part of an on-call rota will not change if they remain within the same level of the frequency per rota e.g. If an individual is working a 1:8 frequency rota and a colleague leaves the rota, the frequency will increase to a 1:7 basis, which attracts the same payment percentage as a 1:8 rota.

3.2 Part time colleague working a full-time share of the on-call rota

Where a part-time colleague participates on an on-call rota at the same frequency as a full-time colleague then they will receive the relevant percentage of their full-time equivalent salary. This is so part time colleagues are not disadvantaged for having the same on-call commitments as a full-time colleague e.g., on a 1:9 on-call rota both full time and part colleagues would work 1 on call period per week.

3.3 Part time colleague working a pro-rata share of the on-call rota

Where a part-time colleague works a pro-rata share of the full-time on-call rota, proportionate to their contracted hours, they will receive payment as per table 1, regardless of the payment rate being made to full time colleagues on the on-call rota. e.g., on a 1:9 on-call rota with a full-time colleague working 1 on-call period per week. A part-time colleague working 50% of full-time equivalent hours would work 1 on-call period per fortnight (effectively a 1:18 frequency). In this example the colleague would receive the rates for a colleague working a less than 1:12 frequency.

3.4 Temporary Rota Changes

If due to long term sickness absence (4 weeks or longer), maternity leave or other extended leave above 4 weeks, the remaining colleagues on the rota work an increased on-call commitment the frequency payment should be revised to reflect the new commitment as per table 1. This revised frequency payment would continue

on a temporary basis until such time as the rota frequency is changed. If additional colleagues are added to the rota which affects the frequency of existing members of an on-call rota, then again, the frequency payment received should reflect table 1.

Any temporary increase in frequency payments will not be classed as regular earnings and therefore will not be included when calculating any protection amounts under the Trust policy for pay protection.

Colleagues who are absent due to sickness whilst rostered to be on-call, will still receive the commitment payment. In circumstances where a colleague is on long term sickness and medical advice dictates a cessation of on-call then the frequency payment for that individual will cease upon commencement of any new arrangements.

Any colleagues that are in receipt of a frequency percentage payment should not 'give up' episodes of on-call. Where a colleague wishes to be removed from a specific on-call this should be done on a like for like basis with somebody else on the rota. Such changes should not necessitate a need for a change in on call frequency payments. Where a colleague repeatedly gives up their on-call commitments and fails to exchange them then their on-call frequency payment may be re-calculated.

3.5 Short-notice situations (<24 hours weekday or <48 hours weekend)

It is recognised that in some situations e.g., sickness, it may be necessary to ask a colleague to cover an additional on-call period. In these, unforeseen circumstances, to ensure business continuity, the colleague covering an additional on-call period may claim £40, irrespective of their existing on-call payments.

3.6 Changes to rota

Any changes to an on-call rota must be agreed, in advance, with the line manager or person in charge of maintaining the rota. Any temporary changes to a rota will be monitored, by the line manager, on a regular basis to assess the effectiveness and impact of the change.

4. Payment for Work Carried Out Whilst On-Call

4.1 Payment rates

This relates to actual work performed as a result of being on-call (including travel time). This includes attending the workplace to resolve an issue or involve work being carried out from the colleague's home (either by remote access or over the phone). For this service, the colleague will get paid at the rate of time and a half for standard days and double time for public holidays (midnight to midnight). Alternatively, colleague may opt to take TOIL (time of in lieu) instead of payment, which will be offered at plain time. Where colleagues wish to take TOIL instead of payment this should be agreed with their manager prior to commencement of any work performed. Where TOIL is agreed unsocial hour's enhancements can be claimed for the actual number of hours worked in addition to the TOIL. These unsocial hours should be claimed by completing a monthly timesheet.

If the TOIL can be accommodated by the service/department, it must be rostered and ideally be taken within one month of accrual. However, where the TOIL cannot be taken for genuine operational reasons within three months of being worked, payment must be made at the rate applicable to when the work was done.

4.2 Telephone advice

Where a colleague, that is on-call, is required to provide detailed telephone advice then the appropriate rate of payment can be claimed as per the 'work carried out whilst on-call' section above. A record of the reasons for being called and length of time will be required if claiming payment or TOIL.

4.3 Minimum Payment

A minimum of 1 hour's payment will apply for any recall to work which includes any time taken to travel to and from the place of work. A minimum of 30 minutes payment will apply when no recall to the base of work is needed, but the colleague is required to work or give advice from outside their normal place of work e.g., home.

4.4 Public Holidays

Colleagues who are called into work during a period of on-call on a public holiday (midnight to midnight) will receive payment at double plain time for the period they are required to attend. Alternatively, colleagues may choose to take time off in lieu. Time of in lieu will be at plain time. Arrangements to take time off in lieu should be agreed between the colleague and line manager prior to the on-call taking place. Where TOIL is agreed bank holiday enhancements can be claimed for the number of hours worked.

To ensure correct calculation of an colleagues' leave entitlement, any individual who may be required to cover an on-call period during the course of a year that contains a public holiday, should only deduct public holidays from their inclusive entitlement as and when the holidays occur.

Colleagues that are rostered to provide on-call cover on any part of a public holiday will have no deduction from the annual leave allowance even if they are not called to attend work (as they have been available to work). Where a colleague is required to be available for several availability periods over a public holiday, they cannot claim more than one day's leave back. The maximum amount of leave that can be claimed back is 7.5 hours (for full time colleagues), which will be pro rata for part time colleagues.

4.5 Travel Time

It is not typical for a colleague to be on the on-call rota if they are required to travel further than 45 minutes. Where, for service needs, this is required, then the individual will be paid for the total time it takes to travel. This also applied where there are adverse travel or weather conditions which may delay travel time. Travel time should not exceed 60 minutes.

4.6 Expenses

Colleagues may claim payment for expenses incurred as a result of being recalled to work whilst on-call (i.e., mileage) and these should be submitted for payment on a monthly basis. Expenses will be paid in line with Terms and Conditions. No payment will be made for private telephone line rental or car parking on Trust premises. Where necessary Trust mobile phones should be made available to the colleague, and this should be arranged by the manager. Hospital parking arrangements should, where necessary, be agreed between the manager of the on-call rota and the car parking office in advance. In exceptional circumstances a taxi service will be provided. This may be appropriate for people who do not normally have their own means of transport into the hospital or in other emergency situations. The need for a taxi will be agreed with the line manager, in advance of the on-call period taking place.

4.7 Minimum Daily Rest and Compensatory Rest

Employees should normally have a daily rest period of no less than 11 hours in each 24-hour period and a weekly rest period of 35 hours every seven days. In circumstances such as on call, it may not be practicable for employees to receive their daily rest meaning it may be less than 11 hours. In these circumstances, records should be kept by the employer and compensatory rest should be given to the employee where they have been unable to take their minimum daily rest time. Where full daily rest has not been taken because the employee is changing shifts, such as moving from a working shift to an on-call period, the employer is responsible for ensuring that the employee receives the equivalent compensatory rest as soon as reasonably possible. The employer must ensure that the employee has had the equivalent compensatory rest back within 14 days of the shift, and this can be added on to their weekly rest.

When considering if compensatory rest applies, managers should consider whether employees have been able to take their minimum daily rest before and after the on call period. Managers should also consider whether employees have had their minimum weekly rest period when producing the rota.

No compensatory rest is required where the day following an on-call period is a non-working day, i.e., rostered day off, weekend or public holidays.

4.8 Fitness to Work

On-Call is an addition to colleagues' basic contracted hours. Where a colleague cannot fulfil their contracted hours due to work performed whilst being on-call e.g. they have worked throughout the night or due to the time they were called in, there are a number of options of how this should be dealt with. The colleague should agree with their line manager which of the following options apply, prior to the on-call commencing, or in circumstances where that is not appropriate as soon as possible thereafter. A line manager should provide good reason as to why an option cannot be granted upon request. Consideration will be given to ensure that the person undertaking an on-call is fit to practise for the remainder of their rostered hours

following an on-call period. This could be from either the line manager or the colleague.

- a. Any hours not fulfilled on a shift following an on-call period where compensatory rest does not apply, can be subtracted from any time owing the colleague may have accrued. e.g., if a colleague works for 5 hours whilst on-call and they were due to work a 7.5 hour shift the following day. They could take 2.5 hours as TOIL and not attend work the following day. If the TOIL is not available to support this, the hours can be made up at another time, over an agreed period. The 5 hours worked would not attract call out rate and would instead be paid as an unsociable enhancement payment under Agenda for Change.
- b. The colleague can delay the commencement of their shift by the number of hours worked the previous night and still finish their shift at their normal time i.e., someone due to work 09:00am until 17:00pm who has carried out on-call work from 04:00am until 06:00am can delay their shift times until 11:00am (and still finish at 17:00pm). In this example, the two hours worked would not attract call out rate and would instead be paid as an unsociable enhancement payment under Agenda for Change.
- c. The commencement and finish times of the whole shift can be delayed i.e., someone due to work 09:00am until 17:00pm who has carried out on-call work from 04:00am until 06:00am can delay their shift times to 11:00am and still finish at 19:00pm. In this example they can claim for payment at the call out rate for the two hours worked between 04:00am and 06:00am, as the whole shift has still been completed.

The requirements of the Working Time Directive and Agenda for Change Terms and Conditions of Services Section 27 must be adhered to. Consideration should be given to the Health and Wellbeing of the colleague when considering which option is most appropriate.

Colleagues will not typically be expected to work on average more than 48 hours per week, calculated over 17 weeks, inclusive of both contractual hours and hours worked whilst on call. Consideration should be given to the frequency and intensity of on-call periods to ensure that colleagues are not required to exceed this amount.

If any area of work cannot comply with the above agreements, then they should discuss their particular issues with the Trust partnership forum/organisational change forum. When creating an on-call rota, consideration should be given as to how the colleagues can fulfil their normal contracted hours following an on-call shift so that it is not onerous or unsafe. Line managers should consider whether moving to a shift system is more appropriate than an on-call rota if the requirement for out of hour's intervention becomes increasingly onerous.

4.9 Rota's

On-call rotas should be issued to all staff a minimum of 4 weeks prior to commencement of any on-call period.

5. Pensionable earnings

Availability payments are pensionable. Any payment for work done whilst on-call, up to and including 37.5 hours each week are pensionable, at plain time rates. Any payment for work done whilst on-call, over and above 37.5 hours each week are not pensionable.

6. Review

The on-call agreement should be reviewed no less frequently than on an annual basis. Divisions are not permitted to deviate from the Trust on-call agreement without the Trust Joint Partnership Forum being involved in the variation, and the express written consent of the Chief People Officer.

7. Effective Date

These arrangements will take effect from 1 April 2024.

8. Local arrangements / standard operating procedures

This agreement should be read in conjunction with any local guidance and standard operating procedures that exists within areas of the Trust relating to the application of on-call rotas.