Torbay and South Devon NHS
NHS Foundation Trust

ACTING DOWN BY CONSULTANTS

(MD7)

If you require a copy of this policy in an alternative format (for example large print, easy read) or would like any assistance in relation to the content of this policy, please contact the Diversity & Inclusion Officer on 01803 656705.

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Links or overlaps with other policies:			

Amendment History

Issue	Date	Reason for Change	Authorised
1		Review & new policy template	
1.1	**Feb 2023**	General Review update to job terminology.	

Torbay and South Devon NHS
NHS Foundation Trust

Rapid Equality Impact Assessment

Policy Title (and number)	Acting Down By Consultants	**Version and Date**	*Feb 2023 v1.1*
Policy Author	Medical Workforce		

An (e)quality impact assessment is a process designed to ensure that policies do not discriminate or disadvantage people whilst advancing equality. Consider the nature and extent of the impact, not the number of people affected.

Who may be affected by this document?

Patients/ Service Users ☐	Staff ☒	Other, please state… ☐

Could the policy treat people from protected groups less favorably than the general population?
PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below

Age	Yes ☐ No☒	Gender Reassignment	Yes ☐ No☒	Sexual Orientation	Yes ☐ No☒
Race	Yes ☐ No☒	Disability	Yes ☐ No☒	Religion/Belief (non)	Yes ☐ No☒
Gender	Yes ☐ No☒	Pregnancy/Maternity	Yes ☐ No☒	Marriage/ Civil Partnership	Yes ☐ No☒

Is it likely that the policy could affect particular 'Inclusion Health' groups less favorably than the general population? (substance misuse; teenage mums; carers[1]; travellers[2]; homeless[3]; convictions; social isolation[4]; refugees)	Yes ☐ No☒

Please provide details for each protected group where you have indicated 'Yes'.

VISION AND VALUES: Policies must aim to remove unintentional barriers and promote inclusion

Is inclusive language[5] used throughout?	Yes ☐ No☐ NA ☒
Are the services outlined in the policy fully accessible[6]?	Yes ☐ No☐ NA ☒
Does the policy encourage individualised and person-centered care?	Yes ☐ No☐ NA ☒
Could there be an adverse impact on an individual's independence or autonomy[7]?	Yes ☐ No☐ NA ☒

EXTERNAL FACTORS

Is the policy a result of national legislation which cannot be modified in any way?	Yes ☒ No☐

What is the reason for writing this policy? (Is it a result in a change of legislation/ national research?)

to give clear guidance on the local framework for submitting exception reports and conducting work schedule reviews as required under the Terms & Conditions of Service for Doctors & Dentists in Training 2016.

Who was consulted when drafting this policy?

Patients/ Service Users ☐	Trade Unions ☒	Protected Groups (including Trust Equality Groups) ☐
Staff ☐	General Public ☐	Other, please state… ☐

What were the recommendations/suggestions?

Does this document require a service redesign or substantial amendments to an existing process? ***PLEASE NOTE: 'Yes' may trigger a full EIA, please refer to the equality leads below***	Yes ☐ No☐

ACTION PLAN: Please list all actions identified to address any impacts

Action	Person responsible	Completion date

Torbay and South Devon NHS
NHS Foundation Trust

Contents

1 Policy Statement....5
2 Introduction....5
3 Scope....5
4 Equality and Diversity Statement....5
5 Measures to Avoid Acting Down....6
6 Procedure for Requesting a Consultant to Act Down....7
7 Remuneration and Compensation for Acting Down....8
8 Reorganisation of Clinical Duties Following a Period of Acting Down....9
9 Training and Awareness....9
10 Contact Details....9
11 Monitoring, Audit and Review Procedures....9
12 Appendix 1 ACTING DOWN BY CONSULTANTS....10

Torbay and South Devon NHS
NHS Foundation Trust

1 Policy Statement

1.1 This policy outlines the process required in situations where Consultants are required to 'Act Down.'

2 Introduction

'Acting Down' is the term used to refer to situations where a Consultant, normally as a result of an emergency or a crisis, is required to undertake duties usually performed by a more junior member of medical or dental staff. It does not apply to duties which a Consultant undertakes as part of his/her normal workload but which a more junior member of staff may be competent to undertake.

'Acting Down' by consultants should be the exception rather than the rule and all attempts to avoid the necessity for it should be made. The Trust recognises that acting down by a Consultant places an increased burden of stress on that individual and can lead to one member of staff trying to perform two key roles simultaneously. The Trust also recognises that under their current Terms & Conditions of Service, Consultants are not contractually obliged to act down or be compulsory resident on-call to cover the duties of more junior medical staff except in the most extraordinary and unforeseeable circumstances. The aim of this protocol is therefore to:-

1. Outline the actions that should be taken to minimize the need for Consultants to act down,
2. Agree the arrangements for requesting a Consultant to act down, and
3. Outline the remuneration/compensation arrangements for individuals who do act down.

3 Scope

3.1 This policy applies to all Consultant medical staff employed by Torbay & South Devon NHS Foundation Trust, together with those on a joint contract with the organisation and another employer.

4 Equality and Diversity Statement

4.1 The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): sexual orientation; gender; age; gender re-assignment; pregnancy and maternity; disability; religion or belief; race; marriage and civil partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.

4.2 The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis.

5 Measures to Avoid Acting Down

5.1 Consultants are usually requested to act down due to a shortage of absence of junior staff. The majority of such absences or shortages are known well in advance. Trainee doctors are required to give six weeks' notice of any requested leave. If this leave requires locum cover this should be notified to Medical Personnel immediately who will begin the process of finding a suitable locum. Many trainee 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. Specialties should ensure that they have arrangements in place for the management of these rotas, including making sure that the trainee doctors are aware of their prospective cover commitments. There should also be a mechanism for identifying at the earliest opportunity any problems with the prospective cover arrangements, e.g. two doctors on the same rota needing study leave at the same time to undertake an exam, whereby locum cover may be necessary. Again, where the need for locum cover is identified and agreed this should be conveyed to Operations Manager and or Clinical Service Lead.

5.2 Where a trainee doctor requests a period of leave for which a locum is required giving less than 6 weeks' notice, the reason for the leave and failure to give six weeks' notice should be reviewed. Any approval of the leave should be conditional upon being able to find appropriate cover. If a Consultant, other than the Operations Manager/Clinical Service Leads, approves the request for leave without this condition, he or she will be required to undertake any subsequent acting down duties as a result of the unavailability of appropriate locum cover and will receive no additional remuneration/compensation for the duties. However, if the Operations Manager/Clinical Service Lead approves the leave of a trainee in these circumstances and it results in the acting down of a Consultant the Consultant will be remunerated in accordance with Section 7.

5.3 From time to time certain specialties encounter difficulties in recruiting to their agreed quota of trainee doctor posts. Specialties should again ensure that mechanisms are in place to identify potential problems at the earliest opportunity enlisting the support of Medical Personnel to try and make temporary arrangements for cover with either NHS or Agency locum medical staff.

5.4 Although the majority of leave can be planned well in advance there will be occasions where absences occur at very short notice because of unforeseeable circumstances such as sickness, domestic crisis or the failure of a planned locum to turn up. 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. Specialties should ensure that trainee doctors are fully aware of the procedures for reporting sickness absence, the person they should report to and the need for absence to be reported at the earliest opportunity. If locum cover is required 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 forming contingency plans.

5.5 Specialties may consider agreeing with the trainee doctors a system whereby on a rotational arrangement one of them is nominated (in case of an unforeseeable absence) as 'reserve on-call' for the colleague who is formally rostered to be on-call. trainee doctors contact numbers are available via switchboard. This arrangement should only be used to cover short term unforeseeable absences or the first 72 hours maximum of a longer-term absence. 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 the trainee doctors' hours of duty which are subject to certain restriction by their terms and conditions of service. Thus the arrangement should only be utilised when other measures have been exhausted or there is insufficient time to implement other methods of providing cover.

5.6 The failure of a locum to turn up is often discovered outside of the normal 09:00 – 17:00 Monday to Friday hours. There may also be other absences which are notified outside of normal hours for example the trainee doctor who is due to commence his or her on-call duties at 09:00 on Saturday morning but falls ill during Friday night. In this situation the on-call Consultant for the Specialty concerned should be informed at the earliest opportunity and his/her advice sought. It is the responsibility of the on-call manager or night manager not the on-call Consultant to contact the Doctors Mess and/or Locum Medical Agencies.

6 Procedure for Requesting a Consultant to Act Down

6.1 Having taken all of the action outlined above there may be occasions where it is necessary to ask a Consultant to act down. These situations should, if everything is done correctly, be restricted to those scenarios outlined in 2.4 and 2.6 above where the absence was unforeseeable, occurring at very short notice and where no other suitable alternative cover arrangements can be put in place.

6.2 Wherever possible the Consultant should be given a minimum of four hours notice of a potential problem to allow him or her to start making contingency plans. It does however need to be recognised that this will not always be possible, for example, in the scenario of a locum failing to turn up or a trainee doctor taking ill during a period of on-call duty. The request to ask a Consultant to act down will be made by the most Senior Manager on-call.

6.3 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 the patients, staff, any knock on effect for other specialties and any effect for other Trusts (e.g. Plymouth or Exeter), 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 a department this must be discussed with the Operation Manager, Clinical Service lead and/or Medical Director.

6.4 Consultants will not be required to agree 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 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 the on-call Consultant does not believe he/she can safely 'act down' he/she must speak to his/her colleagues and/or the Medical Director to make alternative arrangements.

6.5 Wherever possible where a Consultant agrees to 'act down' to cover a junior member of staff out of hours, arrangements will be made for another consultant of the same specialty to be available to provide further 'Consultant' cover as necessary. If the Consultant who agrees to act down is confident that he or she can cover both roles this requirements may be waived.

7 Remuneration and Compensation for Acting Down

7.1 Where a Consultant acts down between 09:00 and 17:00 Monday to Friday or during his or her 'normal' working hours if different to this, no additional remuneration or compensation will be payable if the steps outlined in Section 2 have been followed unless the Consultants can demonstrate that he/she would not normally have been expected to be available for NHS activities during such a period. If the steps in Section 2 have not been followed or the Consultant can demonstrate he/she would not normally have been available for NHS duties during the period of acting down he/she will be eligible for time off in lieu equivalent to the period of time spent acting down.

7.2 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 contract hours) and is required to either be resident on-call or participates in a shift system, he/she will be entitled to three Programmed Activities (PAs) off for every one on duty. (One Programmed Activity equates to 3 hours between 19:00 and 07:00 or at weekends). Alternatively, the Consultant may request financial remuneration at double his/her standard PA rate.

7.3 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 contractual hours) and is required to be on-call from home, he/she will be entitled to two PAs off for every one on duty at home. If the Consultant is called in to the Hospital during this period of on-call he/she will be entitled to three PAs off for every one spent at the Hospital (including traveling time to and from the Hospital). Alternatively the Consultant may request financial remuneration at time plus one half of his/her standard PA rate for the time spent on duty at home and double the PA rate for time spent on duty at the hospital (including traveling time to and from the Hospital).

7.4 Following a period of acting down, the Consultant must obtain the appropriate form (attached as Appendix 1) and submit the completed form to the Operations Manager. . The pattern of acting down will be regularly monitored and reviewed.

More detailed investigations will be held where there appears to be a pattern of 'avoidable' incidents of acting down.

8 Reorganisation of Clinical Duties Following a Period of Acting Down

8.1 Where as a result of acting down a Consultant is required to be resident on-call between 17:00 and 07:00, participates in a shift system within this time or if on-call from home and spends more than 4 hours (including travelling time) at the Hospital after midnight he/she will be entitled to have his/her clinical sessions cancelled the next day in the interests of patient safety. Where possible this should form part of the time off in lieu.

8.2 Where a Consultant opts for financial remuneration for acting down duties rather than time off in lieu he or she must be satisfied that he/she is mentally and physically able to safely continue with their normal duties.

9 Training and Awareness

9.1 Advice and support will be provided by the Medical Workforce team to support staff and managers in adhering to this policy and their understanding of dealing with Acting Down by Consultants.

9.2 The Medical Workforce team will raise awareness of this policy through the publication of information on ICON and to advise staff of changes to the policy through the staff bulletin and ratification processes.

10 Contact Details

10.1 Any queries regarding this policy should be directed to the Medical Workforce Team:

Email: sdhct.medicalhr@nhs.net

11 Monitoring, Audit and Review Procedures

11.1 This policy will be monitored and audited on a regular basis. A full review will take place every two years by the Directorate of Workforce and Organisational Development unless legislative changes determine otherwise.

Torbay and South Devon NHS
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12 Appendix 1 ACTING DOWN BY CONSULTANTS

This form should be completed whenever a Consultant has felt obliged 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:	Number of Hours on-call at Home : _____ Reason: Nature of duties:
Name and Grade of 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 Personnel on attempts made:	
Other staff on-call during the period:	
Arrangements made for remuneration:	
Signed: …….. Date: …….. **Approved by: …… Date: ……** **Clinical / Medical Director** **Approved by: …… Date: ……** **Divisional General Manager**	