

# On-Call Policy for AfC Managers

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## 1. Introduction & Purpose

1.1 East London Foundation Trust recognises that many non-medical staff work as On Call outside normal office hours and provide essential decision making roles in a variety of circumstances. NHS England Core Standards for Emergency Preparedness, Resilience and Response (EPRR) suggest that an On Call Policy for such staff is good practice.

1.2 This policy sets out the Trust's local arrangements for the payment of on-call work under the national framework of Agenda for Change. The requirement for on-call arrangements within a particular department is determined by the departmental manager and agreed and signed off by the Borough Director in line with our need to provide patient services.

## 2. Scope

2.1 This policy applies to the all non-medical posts of all full time and part time employees covered by the Agenda for Change Terms and Conditions of Service, regardless of pay band who are On Call outside the hours of 0900-1700 Monday – Friday including public holidays and weekends. In the Primary Care Directorate, the On Call is for hours outside of 830-1700 Monday – Friday including public holidays and weekends.

2.2 It does not cover on-call payment arrangements for medical and dental posts, bank staff or the posts of workers not employed by the Trust.

## 3. Guiding Principles for this Policy

3.1 The guiding principles of this guidance are in line with the Agenda for Change principles for harmonised on-call arrangements contained in Annex 29 of AfC Terms and Conditions, namely:

- To be consistent with the principles of equal pay for work of equal value.
- To provide a payment that reflects the availability for being called.
- To take account of the frequency of on-call availability.
- To specify payment for work done whilst on call.
- To provide staff with the option to take time off in lieu (TOIL) rather than payment for work done.
- To allow for compensatory rest under the European Working Time Directive (EWTD).
- To specify the arrangements for payment of travel time and expenses.
- To specify the arrangements for public holidays.

To specify whether payments are pensionable or non-pensionable.

3.2 This policy applies as an overarching framework to all departmental on-call arrangements. However, the skills and abilities required to carry out on-call work and the work to be done during on-call are to be determined by each department/service with reference to service need.

3.3 Where an on-call arrangement is required by a department/service, it is a contractual requirement that all employees are automatically included in those arrangements unless they have a written variation of contract excluding them from the on-call element of their role because of an agreed flexible working agreement, for specific health reasons or reasons linked to the Equality Act 2010. Any such agreement will be reviewed by the manager responsible for

the on call rota at least three times per annum to assess if the arrangement to exclude an employee from on call still stands.

3.4 In certain circumstances (e.g pregnant employees or health condition) it will be necessary to carry out a risk assessment of their on-call duties to ensure that their health and safety needs are considered.

3.5 This policy should be implemented fairly and equally taking into account service and staff needs.

#### 4. Definition and Explanation of Terms

<p><b>Out of Hours</b></p>	<p>These are the hours in which the on-call service will operate and refers to those hours, which are outside of normal working hours (9.00 a.m. – 17.00 Monday to Friday, except Bank Holidays). Therefore, the term out of hours covers weekends and 17.00 hours – 9.00 hours Monday – Friday, plus public holidays when normal working hours are suspended and weekend on-call arrangements apply</p> <p>In the Primary Care Directorate, the On Call is for hours outside of 8.30 hours and 17.00 hours Monday – Friday including public holidays and weekends. Therefore, for the Primary Care Directorate, the term out of hours covers weekends and 17.00 hours – 8.30 hours Monday – Friday, plus public holidays when normal working hours are suspended and weekend on-call arrangements apply</p>
<p><b>On-Call</b></p>	<p>When a member of staff is required to be contactable and available in the event of Senior Management support being needed outside of normal working hours. This includes arrangements where a member of staff chooses to remain on Trust premises/accommodation in order to fulfil their on-call requirements, but it is not a Trust requirement for them to remain on-site.</p>

<b>On-Duty</b>	When staff members, of any position, work within their paid/contracted hours, usually over a 24-hour period which incorporates rest breaks
<b>Emergency call</b>	A member of staff may be called in for an emergency when not on an on-call rota, e.g. for a major incident
<b>Compensatory Rest</b>	Rest taken later (ideally during the same or following day) to compensate for an interrupted statutory rest break.
<b>Daily Rest</b>	The break between working days in accordance with the Working Time Regulations. Daily rest is not required to be uninterrupted.
<b>Frequency Periods</b>	The unsocial hours period is split into 9 frequency periods per week. These would typically be of between 10-15 hours in length as appropriate for the needs of the service. For example on-call periods may be 5 frequency periods of weekday (evening & night), 4 frequency periods over a weekend covering the day and night or 2 frequency periods within a Public Holiday covering day and night. Each frequency periods is seen as being 12 hours in length.
<b>On-call arrangement</b>	A contractual arrangement between the Trust and the employee for the employee to be available for on-call work outside ore departmental working hours either at workplace, at home or elsewhere- and to work as and when required.
<b>On call availability</b>	An obligation to be available and ready to undertake work of an urgent or emergency nature as part of an organised way of working

<b>On-Call Work</b>	Work of an urgent or emergency nature which arises during the on call period
<b>Standard individual working hours</b>	Hours which are regularly worked by staff and is fixed by contract of employment, to a maximum of 37.5 hours per week.
<b>Core Departmental working hours</b>	Hours within which the department/service provides its usual services
<b>Overtime</b>	Defined by Agenda for Change terms and Conditions of Service Section 3. This on-call policy does not incorporate any agreement for guaranteed overtime.
<b>Unsocial Hours</b>	Defined by AfC T&C Section. On weekdays the period 20:00 – 06:00 is classified as unsocial hours. Saturdays, Sundays and Public Holidays are all classified as unsocial hours and are defined as the periods midnight to midnight.
<b>Week</b>	Seven calendar days as set out in the department/service on-call arrangement (usually Sunday- Saturday inclusive)
<b>Working Time</b>	Where an on-call arrangement is from home, working time is time spent working. Time spent sleeping whilst being available for work as part of one of these on-call arrangements is not working time. Time spent travelling in relation to on-call work is also working time.

## 5 Roles and Responsibilities:

### 5.1 Line Managers:

It is responsibility of the line manager to ensure that:

- On-call arrangements match service requirement and are reviewed in light of changing service needs;
- Employees understand their contractual obligations in participating in the on-call arrangements;
- A rota is published in advance (ideally at least 6 weeks ahead) to enable participants to plan;
- The rota takes account of periods of pre-booked annual leave wherever possible;
- The frequency and type of each employee's commitment is equitable, taking account of approved flexible working agreements, rostered days off or matters requiring exclusion
- All participants in the on-call arrangement are fit for work during and immediately following a period of on-call working;
- They ensure they are aware of any requirement for compensatory rest immediately after the on-call availability period so that they can arrange cover for that working time as necessary;
- The overall working patterns and rostering templates for the department are developed to take into account of on-call or, specifically the requirement to enable the adequate compensatory rest (e.g. shift templates may include the rostering of a day off after a period of on-call availability, or not rostering on-call on the night of a rostered day off etc.);
- Ensure that rotas for out-of-hours' work abide by the Working Time (Amendment) Regulations 2003, in particular rest periods, compensatory rest, and health assessments for night work.

### 5.2 Employees:

It is responsibility of the employee taking part in the on-call rota to:

- Ensure that they are available at all times of the required on-call period, and that members of the Trust and switchboard are informed how to contact them whilst on-call.
- Ensure they do not undertake any other work (paid or unpaid), or training or study unrelated to the Trust, during the on-call hours. Employees may be subject to a disciplinary process and referral to the Counter Fraud Team in line with the Counter Fraud and Bribery Policy, if this is not adhered to.
- Ensure that they are fit to attend work, must not present themselves for duty in an unfit state (e.g. through alcohol or drugs) and must remain in a fit state whilst on duty and immediately following a period of on-call working;

- Ensure that their line manager is aware of any requirement for compensatory rest immediately after the on-call availability period;
- Adhere to Trust normal attendance and absence reporting and timeliness requirements;
- Ensure that the work to resolve call-outs is done by themselves or others at an appropriate time( i.e. during the out of hours periods for work requiring urgent resolution, and during the following working day for work that can safely be deferred)
- Ensure that to resolve a call- out they explore the possibilities of telephone or internet resolution or safe deferment to the following working day, before taking a decision to physically attend Trust premises;
- Own their on-call rota commitment once the rota has been set and published, ensuring service continuity by swapping with an appropriate colleague (being mindful of skill mix and training) where they are unable to meet their commitment, and informing the appropriate people (e.g. manager, switchboard) of the change;
- Report and act on their own sickness absence in accordance with their local policy;
- Report any concerns about another employee's fitness to work, in confidence, to their immediate manager or to People & Culture Team, or refer to a more senior colleague on-site,
- Be aware of and follow the local standard operating procedures relating to on-call.
- Ensure any requests to come off an on-call rota for health reasons including pregnancy, for a temporary period or permanently is agreed with their line manager, taking Occupational Health advice as appropriate.

## 6. Payments for work done:

### 6.1 Availability payment:

The payment will be based on the proportion of on-call periods in the rota when on-call cover is required. For example the on-call period in each week can be divided into nine periods of at least 12 hours or averaged over a period of 12 weeks. The enhancement for an individual staff member will be based on the proportion of these periods in which they are required to be on-call. Payment for the on-call duties will be made in line with Agenda for change as stated in the below table:

<b>Frequency of on-call</b>	<b>Value of enhancements as a percentage of basic pay</b>
1 in 3 or more frequent	9.5 per cent
1 in 6 or more but less than 1 in 3	4.5 per cent
1 in 9 or more but less than 1 in 6	3 per cent
1 in 12 or more but less than 1 in 9	2 per cent
Less frequent than 1 in 12	Paid a fixed agreed sessional rate

Frequency of on-calls should be reviewed every 6-12 months.



## **6.2 Work done on site or remotely via an IT system**

Staff who are called into work during a period of on-call or who undertake work through an IT system remotely whilst on call, will receive a minimum payment of 2 hours for the period they are required to work inclusive of travel time up to a maximum of 1 hour each way. Alternatively, staff may choose to take time off in lieu (Section 6.6). A minimum period of 2 hours should have expired inclusive of travel time before additional payments for a new period of on call work can be claimed.

## **6.3 Work done by telephone**

Telephone calls (whether one call or several separate ones) and associated work should be remunerated as on-call hours worked. They must be recorded and auditable. Calls made and received and work associated with the calls should be totalled and rounded up to the nearest 15 minutes and will be paid in 15 minute blocks. A minimum period of 15 minutes should have expired before a new call can be claimed. An auditable worksheet must be used to record and claim for all calls received.

## **6.4 Payment for work done**

Staff called out to work whilst on-call or who undertake work through an IT system remotely or on the telephone whilst on call will be paid in accordance with AfC 2.45 (Annex 29). This is time and a half for all hours worked on Mondays to Sunday's inclusive and double time for Bank/Public holidays. Time in lieu will be taken at single time.

Managers who are called into work during a period of on-call will receive payment for the period that they are required to attend, including any travel time. This will be claimed by the completion of an appropriate claim form.

Where managers are required to undertake work continuously on a specific task from home, or are involved in a telephone conversation, which exceeds 30 minutes duration, will receive payment for this period. This will be claimed by the completion of the claim form.

**6.5 Bank/ Public Holidays:** For on-call being undertaken over a Bank Holiday, the On-call Manager will take up the on-call with effect from 9.00 a.m. on the morning of that bank/public holiday. For example: Where the Bank Holiday falls on Monday, the on-call manager will pick up on-call from Monday morning and remain on-call until 9.00 a.m. on the Tuesday morning. Where a Bank Holiday falls on a Friday, the on-call manager will begin from 9.00 a.m. on the Friday morning until 9.00 a.m. on Saturday morning.

The manager on-call covering the Bank Holiday period is entitled to an additional day off (7.5 hrs).

**6.6 Time Off In Lieu (TOIL):** Staff may request to take time off in lieu as an alternative to payment for any period of work done while on-call and this will be given as times and a half for the time worked. However, staff who, for operational reasons, are unable to take time off in lieu within three months must be paid at the on-call rate. Time in lieu will be taken at single time.

## **6.7 Pensionable status of payments**

Availability payments are pensionable. Any payments for work done whilst on call, over and above a contractual 37½ hours each week are not pensionable. Any payments for work done whilst on call, up to and including a contractual 37½ hours each week are pensionable, at plain time rates.

### **6.7. Short notice payments**

Staff who are absent due to sickness whilst on-call, will not receive a payment for on call.

Where, in exceptional circumstances, staff who are not on-call (but are part of an on-call rota) are called in to work for an emergency, they will be remunerated as if they had been on-call according to paras 6.1, 6.2, 6.3 and 6.4.

## **7. Working Time Regulations & Rest Periods**

For the purposes of this guidance, working time is defined as the time staff are required to work whilst on-call.

**7.1 Rest periods:** The working time regulations provide for rest periods of:

20 minutes after 6 hours work

- 11 hours rest in any 24 hour period

- 24 hours rest in any 7 day period, or

48 hours rest in any 14 day period

All staff should have a minimum of 90 hours rest per week on average. This is the total of a worker's entitlement to daily and weekly rest periods, although some rest may come slightly later than normal.

**7.2 Compensatory rest:** Managers will set the rest requirements for their rotas with regard to the needs of the service and the health and safety of their staff, taking into account the frequency and intensity of calls. Where possible, the on-call rota should provide for 11 hours' rest between periods of work done whilst on call and normal working shifts. However, if this is not possible because of the needs of the service, the remainder of the daily rest requirement will be taken as compensatory rest at a time to be agreed by the line manager.

Staff will be entitled to take compensatory rest during paid working hours where their rest period has been interrupted, to ensure they are safe to work the following day. Compensatory rest will need to be agreed by the line manager, however it is recommended that where a member of staff returns home from a period of call-out between the hours of midnight and 5am, their start time in work the next day is later by an equivalent time to their call-out period to allow for compensatory rest i.e. 2 hours later start time following a 2 hour call-out period to ensure the member of staff is safe to work.

There may be circumstances where, because of the demand of the call-out period, a member of staff does not feel safe to be in work at that time, they should discuss this with their manager and alternative arrangements may be agreed. Staff should also discuss with their manager

whether they would like to take their compensatory rest at the start or end of their shift, if the service can accommodate this.

If staff are on-call for 2 x 24-hour periods (e.g. over a weekend) it may not be possible to incorporate compensatory rest immediately after the period worked. However, managers must ensure that the principle of minimum 90 hours' rest per week on average is adhered to.

The compensatory rest period may fall on a working or non-working day. If it falls on a non-working day, staff will not accrue any additional compensatory rest.

## **8 Sickness absence and on call**

8.1 Staff who are absent due to sickness whilst on-call, will not receive a payment for on call. Any requests to come off an on-call rota for health reasons, for a temporary period or permanently, must be agreed by the line manager with Occupational Health advice.

8.2 Any return to the rota after a period of absence due ill health must also be reviewed by the manager with Occupational Health advice.

## **9 Travel expenses, transport and parking**

9.1 Appropriate travel expenses incurred in order to carry out work on-call will be reimbursed in line with the Trust Expenses Policy and be paid at HMRC rates.

9.2 Staff will use the most appropriate form of transport for their journey to and from work, depending on the time of the call, personal safety and cost.

9.3 Access will be given to all staff car parks for on-call parking via the normal application procedure.

9.4 The Trust will not be liable for the payment of any parking fines incurred whilst staff undertake on-call duties.

9.5 Staff are expected to follow the rules of the road and the Trust will not be liable for any offence committed by members of staff (e.g. speeding fines) whilst travelling to or from an on-call shift.

## **10 Claiming On Call Payments**

These are currently done via a form devised by the Workforce information team or via the Healthroster system where teams are 'live'.

## **11. Misuse of this policy**

11.1 Any misuse of this policy may lead to action taken under the Trust Disciplinary Policy & Procedure. An investigation may also be undertaken by the Trust's Local Counter Fraud Specialist which could result in the matter being investigated criminally.

## **12. Review**

This policy will be subject to a planned review every three years as part of the Trust's Policy Review Process. It is recognised however that there may be updates required in the interim arising from amendments or release of new regulations, Codes of Practice or statutory provisions or guidance from the Department of Health or professional bodies. These updates will be made as soon as practicable to reflect and inform the Trust's revised policy and practise.

## **13: Associated Policy**

Trust Expenses Policy

Management of Staff Affected by Change Policy and Procedure