

Consultant Contract Implementation

**Guidance to health service management on
use of structured overtime**

Volume VI, 30th May 2017

Purpose of guidance

Please note that this guidance is to health service management. This document is the sixth volume of such guidance. The document dated 25th July 2008 is referred to as 'Management Guidance, Volume I'. Management Guidance Volume II issued on 15th August 2008, Management Guidance Volume III on 28th August 2008, Management Guidance Vol IV on 14th October 2010 and Management Guidance Vol V on 19th December 2012. Further guidance relating to Provision of Compensatory Rest for Consultants and revised arrangements for Continuing Medical Education supports issued on 16th April 2014.

This document – together with Volumes I to V and guidance on compensatory rest and Continuing Medical Education is intended to clarify a range of issues associated with the implementation of Consultant Contract 2008 and associated agreements or Labour Court Recommendations.

This particular document focuses on the implementation of structured overtime and other mechanisms providing for Consultant attendance outside the standard 39 hour per week commitment required by Consultant Contract 2008.

Queries in relation to this guidance should be sent to the relevant Hospital Group or Community Health Organisation Head of Human Resources or thereafter to Andrew Condon at email: andrew.condon@hse.ie and Anne Murphy email: anne.murphy9@hse.ie.

Table of Contents

Context	4
1. Relevant provisions of Consultant Contract 2008	4
2. Use of flexible rostering as an alternative to structured overtime	5
3. Implementation of the Public Service Agreement and structured overtime	7
4. Consultant Work Schedules / Practice Plans underpin Structured Overtime	8
5. What does and does not count as structured overtime	8
6. Off-site on-call arrangements	8
7. Remote working	8
8. Consultants holding Consultant Contract 1991, 1997 or 1998.....	8
9. Recording	8
10. Sanction.....	8
11. Payment arrangements	9
12. Travel and mileage	9
13. Review	9
Appendix I – Correspondence from Department of Health	10
Appendix II – Work Patterns Flowchart	12
Appendix III – Structured Overtime approval form	13

Context

Health Service Employers should note that where there is a service requirement that Consultants attend on-site on Saturdays, Sundays or bank holidays the employer should, in consultation with the Clinical Director and other senior clinical staff, undertake an evaluation as to which of C Factor, 5 over 7 working or Structured Weekend attendance is most appropriate to the service need. The Clinical Director must, alongside relevant senior management, sign-off on the approach adopted. Costs arising from Structured Weekend attendance will be actively monitored through the pay and numbers management processes.

1. Relevant provisions of Consultant Contract 2008

Consultant Contract 2008 contains a number of provisions relevant to any decision to require a Consultant work structured overtime. The Contract and related guidance are available at: http://www.hse.ie/eng/staff/Resources/Terms_Conditions_of_Employment/ccontract/

The Contract's provisions include:

a) Teamworking

Sections 10 f) and 10 g) of the Contract state:

“The Consultant will generally work as part of a Consultant team. The primary purpose of Consultant teams is to ensure Consultant provided services to patients on a frequent and continuing basis. In effect this requires that the Consultant provides diagnosis, treatment and care to patients under the care of other Consultants on his/her Consultant team and vice versa. This may include discharge and further treatment arrangements, as appropriate.

The membership of the Consultant team will be determined in the context of the local working environment. The team may be defined at specialty/sub-speciality level or under a more broadly based categorisation e.g. general medicine, general surgery.”

b) Rostering

Section 7 of the Contract and ‘Consultants Implementing the Public Service Agreement’ - an agreement between the Health Service Executive, Department of Health, Irish Medical Organisation and Irish Hospital Consultants Association regarding the implementation of the Public Service Agreement (Croke Park) – together provide for the Consultant to participate in 5/7 working and 24/7 working. These measures are described below.

In addition, the Contract states that the Clinical Director may require the Consultant to participate in the provision of on-call services and structured overtime in addition to the standard 39 hour working week.

Section 7 e) The Contract also notes that:

“As a senior professional employee, the Consultant may be required, from time to time, to work beyond his/her rostered period in line with the exigencies of the service. The Employer will endeavour to ensure that this will be an exceptional rather than a standard requirement.”

c) Structured Overtime of up to 5 hours

In relation to structured overtime, Consultant Contract 2008 makes three points. Firstly, Section 7 d) ii) states that the Consultant who is already rostered on-call for a particular Saturday, Sunday or Bank Holiday:

“. . . may be required to provide a structured commitment on-site of up to 5 hours on a Saturday and / or 5 hours overtime on a Sunday and / or 5 hours on a public holiday.”

Consultants who are not rostered on-call cannot be required to provide Structured Overtime.

Secondly, the section notes that:

“Consultants on onerous on-call rosters shall not be expected to deliver the upper end of this requirement as determined by the Clinical Director.”

The upper end of the requirement could be understood as up to 5 hours on each of Saturday, Sunday and a bank holiday over the same weekend. The Contract states that “only on-call rosters of 1:4, 1:3, 1:2 or 1:1 are regarded as onerous.”

Finally, the Consultant participating in structured overtime must remain available on-call as required:

“The Consultant’s liability for on-call outside such structured or other scheduled overtime hours will continue to apply.”

d) Additional Structured Overtime

The Contract places no limit on the total amount of structured overtime, only on the amount the Employer can require the Consultant to provide.

Taking that into account, while the Employer may request the Consultant to provide additional structured commitments in addition to the 5 hours on Saturdays, Sundays or public holidays, the Consultant is not required to provide such services.

2. Use of flexible rostering as an alternative to structured overtime

The Department of Health has emphasised (letter of June 2016 the HSE National Director of Human Resources attached at Appendix I) that:

“Taking account of the provisions in the Contract, including those at Section 10 f) and g) regarding work as part of a team and the subsequent PSA engagement at the LRC in September 2012 that encompassed 5/7 delivery of care and the need to achieve a more productive match between staffing and service activity levels; the Department is of the view that where such structured attendances are required of Consultants this should, typically, eliminate the need for offsite on-call rostering of their colleagues in that specialty during that time. It is noted that the flexibilities under the PSA should, in the first instance, lead to a reduced requirement for structured on site attendances through the rostering of Consultants to work time at weekends as part of their normal 39 hour working week – particularly in large departments.”

As noted above, in September 2012 the Health Service Executive, Department of Health, Irish Medical Organisation and Irish Hospital Consultants Association reached an agreement regarding the implementation of the Public Service Agreement (Croke Park). This agreement

is entitled 'Consultants Implementing the Public Service Agreement'. It sets out a range of measures regarding flexible rostering and is available here:

http://www.hse.ie/eng/staff/Resources/Terms_Conditions_of_Employment/ccontract/PSA2012.pdf

In relation to the agreed approach to 5/7 and 24/7 rostering, Section 5 ii) c) ii), iii) and iv) state:

“A further cohort of Consultants will regularly be required to deliver part of their standard 37/33 (now 39/37) hour commitment on Saturday and Sunday. Such rostering will be based on international (UK / Australasia) norms for specialist staffing, availability of appropriate NCHD staffing, availability of multi-disciplinary supports and the frequency, volume and acuity of workload. This will involve:

- delivery of the 37/33 (now 39/37) hour commitment across a span of 12 hours between the hours of 8am-8pm Monday to Sunday;
- the Consultant will not be obliged to work more than 8 hours in any one day, structured as a single continuous episode;
- the two days on which the Consultant is rostered off will be continuous;
- scheduling arrangements may be changed from time to time within the 8am to 8pm period in line with clinical and/or service need as determined by the Clinical Director on behalf of the Employer in consultation with the Consultant;
- in addition, the Consultant may be required to participate in the on-call roster or structured overtime as determined by the Clinical Director on behalf of the Employer and such participation will continue to attract the payment arrangements provided for under the Consultant's contract;
- where the Consultant is required to provide structured overtime of up to 5 hours on Saturdays, Sundays and bank holidays, this will be as decided by the Clinical Director;
- the Consultant required to provide part of their 37/33 (now 39/37) hour commitment on Saturday or Sunday will not be expected to do so or to provide on-call on more than a 1 in 5 basis;
- the Clinical Director will have regard to each Consultant's seniority, particular specialist skills and other relevant factors when determining roster requirements;
- where the Consultant works hours as part of the 37/33 (now 39/37) hour commitment and 5/7 roster, the Consultant will be eligible for premium rates in accordance with public health sector norms.

iii. 24/7 rostering

In some settings (e.g. Emergency Medicine, ICU, Neonatology, Obstetrics) and locations Consultants will be required to participate in 24/7 rostering. Such rostering will be based on international (UK / Australasia) norms for specialist staffing, availability of appropriate NCHD staffing, availability of multi-disciplinary supports and the frequency, volume and acuity of workload. This will involve:

- delivery of the 37/33 (now 39/37) hour commitment during the span of the 24 hour day, Monday to Sunday to ensure a rostered on-site consultant presence over the 24/7 period;
- 65-75% of the Consultant's time will involve clinical activity with the remainder allocated to other on-site activities;
- the Consultant will not be obliged to work more than 8 hours in any one day, structured as a single continuous episode;
- the two days on which the Consultant is rostered off will be continuous;
- scheduling arrangements may be changed from time to time within the 8am to 8pm period in line with clinical and/or service need as determined by the Clinical Director on behalf of the Employer in consultation with the Consultant;
- participation in 24/7 rostering is recognised as being more onerous than the standard model of service delivery;

- Consultants participating in 24/7 rostering will not be required to participate in on-call or structured overtime;
 - the Clinical Director will have regard to each Consultant's seniority, particular specialist skills and other relevant factors when determining roster requirements;
 - where the Consultant works hours as part of the 37/33 (now 39/37) hour commitment and 24/7 roster the Consultant will be eligible for premium rates in accordance with public health sector norms.
- iv. Implementation of such changed work patterns will as necessary entail designation of Saturday, Sunday and bank holidays as part of the 5/7 week. The 'structured hours' payment will not apply on a day on which the Consultant is rostered to work as part of the 5/7 week;"

3. Implementation of the Public Service Agreement and structured overtime

In circumstances where the Employer has decided not to use the rostering provisions described above, the use of Structured Overtime can be considered. Any decision to require Consultants to engage in Structured Overtime must be based on service priorities.

Section 4 of 'Consultants Implementing the Public Service Agreement the Agreement notes that:

"Health service management and Consultants share common objectives. We recognise that underlying the provision of a high quality and safe health service is the requirement that patient care is delivered by the appropriate staff, twenty-four hours a day, seven days a week. A key challenge for the health service is to ensure that the way in which services are delivered directly relates to the needs of patients and service users.

Patients must – if they are to avoid long waiting times and adverse impacts on the quality and outcome of care - receive the right care, at the right time – over the full 24/7 period - from staff appropriate to and trained for the best possible management of each patient's condition. It follows that we must organise our services on a 24/7 basis and ensure that staffing is appropriate to patient needs over the full 24/7 period. This will entail demonstrable changes in Consultants' attendance patterns, clinical and non-clinical work practices and reporting relationships."

Taking the above into account, key priorities are to maintain efficient and timely patient flow out of hours and at weekends, enhance senior decision-maker presence on-site and reduce waiting time. In that context, structured overtime should be utilised to progress the following:

- Enhance Patient flow at weekends:
 - Identification and enablement of the required level of weekend discharges (weekends and bank holidays), working with the Clinical Director and Hospital Management Team
 - 7 day rounding with focus on short stay patients and potential discharges, as well as on acutely admitted patients to ensure no delays in care
 - Diagnostic support to facilitate 7 day discharging and optimal throughput of acute patients
 - Weekend consultant review of acutely ill patients (presenting or admitted) to ensure timely care planning and discharge or review as appropriate
- Waiting list initiatives at weekends:
 - Additional OPD lists targeting long-waiters
 - Additional theatre/endoscopy targeting long-waiters

4. Consultant Work Schedules / Practice Plans underpin Structured Overtime

Employers must ensure that an up to date individual Consultant Work Schedule / Practice Plan as per Appendix III of Consultant Contract 2008 is in place and has been approved and signed by the Clinical Director prior to sanctioning Structured Overtime.

5. What does and does not count as structured overtime

The Employer is the sole decision-maker as to whether such structured commitments are required. In the absence of agreement from the Employer to such Structured Overtime, normal on-call or emergency cover arrangements apply. This includes any activity where the Consultant has decided to remain on-site after standard hours.

6. Off-site on-call arrangements

Consultants engaged in the provision of on-call offsite are paid B Factor. Once they attend on-site, they are paid C Factor. The Consultant rostered on-call only becomes eligible for payment of Structured Overtime if the Employer rosters them on-site at specific times on a Saturday, Sunday or Bank Holiday in addition to the standard 39 hour week.

7. Remote working

Consultants rostered on-call and who provide interpretation of diagnostic images from home may be remunerated at C-Factor rates subject to management discretion.

8. Consultants holding Consultant Contract 1991, 1997 or 1998

Consultants holding Consultant Contract 1991, Consultant Contract 1997 or the Academic Consultant Contract 1998 are not eligible for payment of Structured Overtime as it is a pay rate confined to holders of Consultant Contract 2008.

9. Recording

Consultants who are required to undertake Structured Overtime should document their attendance on a Structured Overtime claim form for review / approval by the Clinical Director / Employer. Forms should be signed by the Consultant and the Clinical Director and submitted monthly. Claims submitted in excess of a three month period since the work was undertaken should not be accepted.

10. Sanction

As noted in previous guidance issued in 2008¹, the Employer is the sole decision-maker as to whether such structured commitments are required. In the absence of agreement from the Employer to such structured overtime, normal on-call or emergency cover arrangements

¹ Consultant Contract 2008, Management Guidance, Vol I, S12

apply. Employers should use the form at Appendix III to record authorisation for structured overtime and provision of same.

11. Payment arrangements

Subject to submission of an approved claim as described above, the Consultant should be paid at time and a quarter for each hour of Structured Overtime required by and rostered by the Employer on Saturday and at double time on Sundays and Bank Holidays.

Hours where the Consultant has attended on-site outside the 39 hour week in response to patient need which are in excess of approved Structured Overtime as required by the Employer should be paid at C-factor rates.

12. Travel and mileage

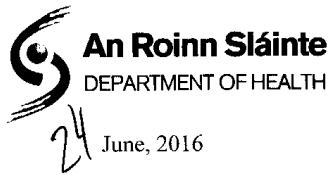
Consultants providing Structured Overtime are not eligible for payment of travel / mileage arising from their journey to and from their place of work. This is because Structured Overtime is overtime rostered by the Employer rather than provision by the Consultant of an on-call or emergency service.

13. Review

Health Service Employers should review the requirement for, benefits arising from and cost of Structured Overtime at six monthly intervals.

* * *

Appendix I – Correspondence from Department of Health



Ms Rosarii Mannion
National Director of Human Resources
Health Service Executive
Dr. Steevens' Hospital
Dublin 8

Re: Clarification of Circular 06/2009 (Consultants) - Payments for Weekend Working

Dear Ms Mannion,

Further to my letter of 11th December 2015 concerning the above I am writing again to reaffirm the Department's position in the matter.

I refer to the letter from the IHCA to Ms Aileen Colley dated 25th February 2016 and related HSE correspondence dated 23rd October 2015 to the IHCA that has been brought to my attention. I also wish to refer to the 2008 Consultant Contract and the LRC engagement with the consultant representative bodies regarding implementation of the Public Service Agreements in September 2012.

My letter of 11th December clarified that payment arises in respect of structured on-site attendance and confirmed that such payment would only arise where it has been determined by the Employer that structured on-site attendance is required – pursuant to sections 7 and 12 of the Contract.

Section 7(c) of the Contract states that: *“the Consultant may be required to participate in an on-call roster as determined by the Clinical Director/Employer”* and, in addition to this, that: *“the Consultant may be required to provide a structured commitment on site of up to 5 hours on a Saturday and / or 5 hours overtime on a Sunday and / or 5 hours on a public holiday.”* It concludes by clarifying that: *“The Consultant's liability for on-call outside such structured or other scheduled overtime hours will continue to apply.”*

It is clear, from the Contract and my earlier letter, that determination of structured on-site attendances is a matter for the Employer and that in the absence of agreement from the Employer to such structured overtime, normal on-call or emergency cover arrangements apply.

Tús Áite do
shábháilteacht 1 Othar
Patient Safety 1 First



Cuirfear fáilte roimh chomhfhreagras i nGaeilge

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♻️ Paipéar Athchúrsáilte/Printed on Recycled Paper

Taking account of the provisions in the Contract, including those at Section 10 f) and g) regarding work as part of a team and the subsequent PSA engagement at the LRC in September 2012 that encompassed 5/7 delivery of care and the need to achieve a more productive match between staffing and service activity levels; the Department is of the view that where such structured attendances are required of Consultants this should, typically, eliminate the need for offsite on-call rostering of their colleagues in that specialty during that time. It is noted that the flexibilities under the PSA should, in the first instance, lead to a reduced requirement for structured on site attendances through the rostering of Consultants to work time at weekends as part of their normal 39 hour working week – particularly in large departments.

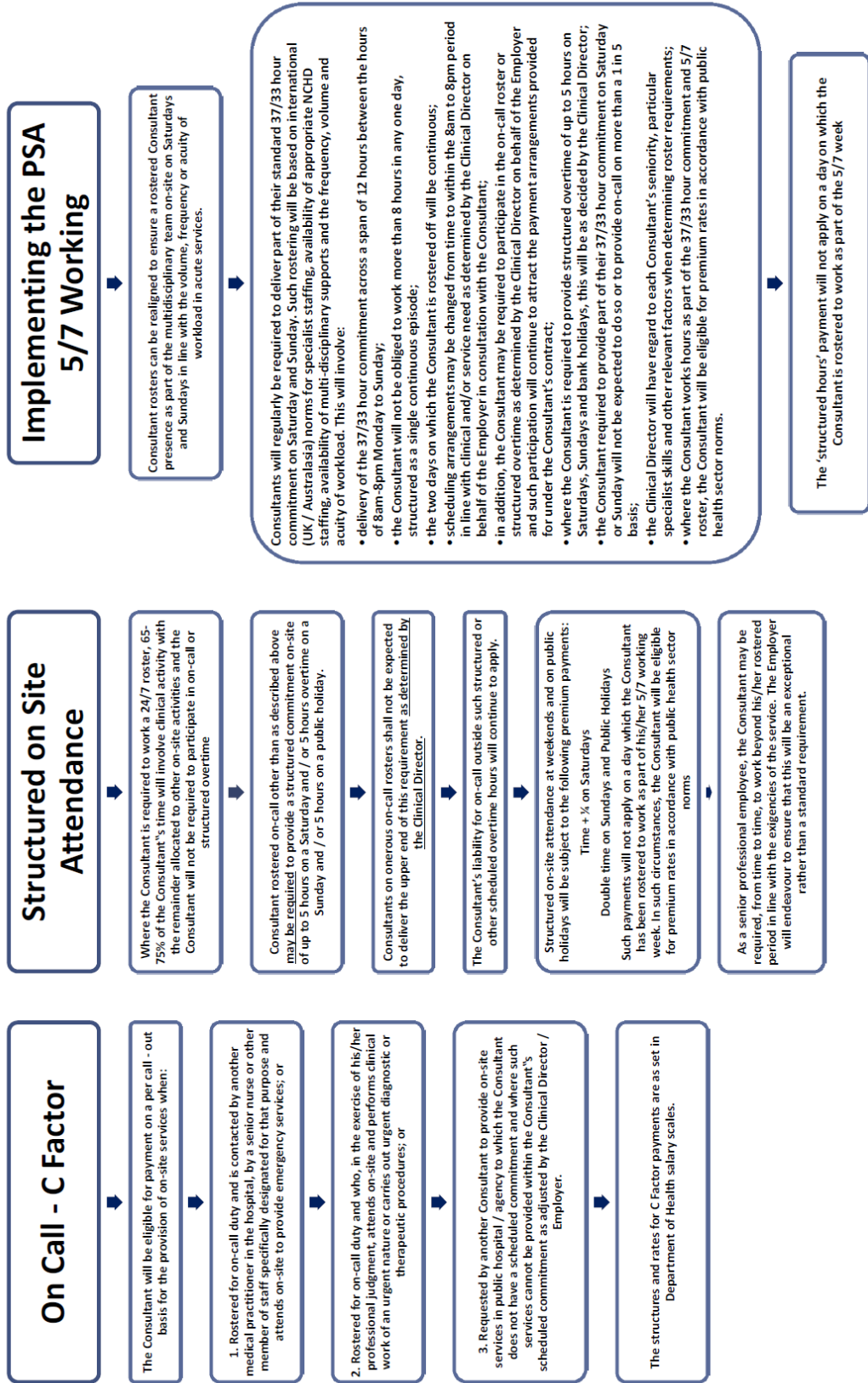
I would be grateful if you could bring these clarifications to the attention of relevant staff, HSE service providers and agencies.

Yours sincerely



Lara Hynes
Principal Officer
National HR Unit

Appendix II – Work Patterns Flowchart



Appendix III – Structured Overtime approval form

Use of Structured Overtime - Record

This form should be used to record authorisation of and time worked by Consultants on structured overtime.

Please have regard to the provisions of Guidance to health service management on use of structured overtime issued by the HSE Acute Hospitals and Human Resource Divisions.

Consultant details:	Name	Medical Council Registration number	Specialty	Sub-Specialty	Name of Clinical Director

Dates when structured overtime required	Reason for use of structured overtime		Start time	Finish time	Signed and approved in advance by		Confirmation that requirement was delivered by Consultant and payment is sanctioned
<i>State date</i>	<i>Rationale for use of structured overtime as opposed to C Factor payment or 5/7 working</i>	<i>Describe services to be provided by Consultant during period of structured overtime</i>	<i>State start time</i>	<i>State finish time</i>	<i>Signature of Clinical Director</i>	<i>Signature of Senior Hospital / Service Manager</i>	<i>Signature of Senior Hospital / Service Manager</i>