

**Management Guidance
HR72 On-Call Policy**

The Trust's Approach to Compensatory Rest

General Principles

Compensatory rest may be granted if either:

- An individual's daily or weekly rest requirements (as stated in the Working Time Regulations) are not met, and/or;
- An individual's sleep is disrupted between midnight and the start of their normal working day by on call work and they require further rest before attending for their next shifts

In circumstances where an individual is entitled to compensatory rest for both of the reasons above, whichever amount is the greatest shall be applied. They should not be added together.

Compensatory rest should begin from the time the employee was due to start their shift the following day or 09:00 am, whichever is earlier.

For staff on call over a whole weekend they will only be entitled to compensatory rest if they:

- are rostered to work on Monday
- have been unable to take a total of 11 hours rest in any 24 hour period over the weekend, and have been unable to take the necessary compensatory rest whilst still on call
- have been called out after midnight on the Sunday night.

In some circumstances, provided individuals have met the daily and weekly rest requirements of the working time regulations, they may feel they have had sufficient rest and choose to attend work at the normal time, even if they have had their sleep interrupted. It may also be possible, after discussion with the department manager, that the employee could start their rostered shift early and finish early, if they are called out shortly before the start of their normal rostered shift.

Managers will need to ensure that arrangements for compensatory rest are suitable for their employees and the needs of their service. Some arrangements will have to be agreed at a local level to ensure they are fit for purpose and do not put staff or patients at risk.

Employees are responsible for accurately recording the time spent working whilst on call. Managers will need to put in place arrangements to audit or review accuracy to ensure employees are paid correctly.

Worked Examples

For these examples it is assumed that the employee works 37.5 hours per week, Monday to Friday, with a variety of shifts which are all 7.5 hours in length with a 30 minute unpaid break. The employee also has an on call commitment.

Example 1

John is on call on a Monday night from 17:00 until 09:00 on Tuesday morning.

At 01:00 John is called into work and returns home at 06:00. John is not called out again that night.

John was able to rest between 17:00 and 01:00 (8 hours) and again from 06:00 to 09:00 (3 hours). So John had a total of 11 hours rest in the 24 hour period.

John was working for 5 hours after midnight, so he is entitled to 5 hours compensatory rest. He would therefore start his next shift at 14:00, which is 5 hours later than planned.

John will still be paid for the 7.5 hours he was rostered to work on Tuesday.

Example 2

John is on call on a Monday night from 17:00 until 09:00 on Tuesday morning. John is rostered to work between 9:00 and 17:00 on Tuesday.

At 19:00 John is called into work and returns home at 20:00. At 01:00 John is called into work again and returns home at 02:00.

John was able to rest between 17:00 and 19:00, 20:00 and 01:00 and 02:00 and 09:00, so he was able to rest for a total of 14 hours.

John was called out for 1 hour after midnight, so he is entitled to start his shift 1 hour late. He would therefore start his next shift at 10:00.

John will still be paid for the 7.5 hours he was rostered to work on Tuesday.

Example 3

Jane is on call on a Wednesday night from 17:00 until 09:00 on Thursday morning. Jane is rostered to work between 9:00 and 17:00 on Thursday.

At 21:00 Jane is called into work and returns home at 07:00.

Jane was able to rest between 17:00 and 21:00 (4 hours) and from 07:00 to 09:00 (2 hours). This is a total of 6 hours rest, so she would be entitled to 5 hours compensatory rest. However, Jane has also worked for 7 hours after midnight so she would take 7 hours compensatory rest.

Jane would be required to attend work at 16:00 to complete the remaining hour of her shift (if the service allows, the manager could agree for Jane to use another type of leave e.g. annual leave, time off in lieu for this hour).

Example 4

Jane is on call on a Friday night from 17:00 until 09:00 on Saturday morning. Jane is rostered for a day off on Saturday.

At 01:00 Jane is called into work and returns home at 06:00. She is not called out again that night.

Jane was able to rest between 17:00 and 01:00 (8 hours) and again from 06:00 to 09:00 (3 hours). Jane had a total of 11 hours rest in the 24 hour period and although she worked 4 hours after midnight she can rest immediately at the end of her on call at 09:00, so she is not entitled to any compensatory rest.

Example 5

John is on call on a Friday night from 17:00 until 09:00 on Saturday morning. John is rostered for a day off on Saturday.

At 22:00 John is called into work and returns home at 06:00. He is not called out again that night.

John was able to rest between 17:00 and 22:00 (5 hours) and again from 06:00 to 09:00 (3 hours). He only had 8 hours rest in the 24 hour period, however he can rest immediately at the end of his on call at 9:00 on Saturday morning he is not entitled to any compensatory rest.

Example 6

John is on call from Saturday at 09:00 to Sunday at 9:00. John does not have a rostered shift on Saturday or Sunday.

At 10:00 on Saturday John is called into work and returns home at 15:00. He is called out again at 21:00 and returns home at 01:00.

John was able to rest between 09:00 and 10:00, 15:00 and 21:00 and 01:00 and 09:00. This means he has had a total of 15 hours rest and although he worked after midnight he is able to rest immediately at the end of his on call at 09:00, therefore he is not entitled to any compensatory rest.

Example 7

John is on call on a Wednesday night from 17:00 to 09:00. He is rostered to work the following day (Thursday) from 13:00 to 21:00.

At 22:00 on Wednesday night John is called into work and returns home at 03:00. The call out lasted 5 hours. John is not called out again that night.

John was able to rest between 17:00 and 22:00 and 03:00 and 09:00 which equals a total of 11 hours rest, but because he worked 3 hours after midnight he would be entitled to start his shift 3 hours later if his shift was to start at 09:00. However, because he is not due to start work until 13:00 he is able to rest through the morning and he would be expected to attend work at 13:00 and work his full 7.5 hour shift.

Example 8

Jane is on call on a Thursday night from 17:00 to 09:00 on Friday morning. She is rostered to work 9:00 to 17:00 on Friday.

At 20:00 Jane receives a 10 minute telephone call. At 01:00 she receives another phone call, this time for 20 minutes. At 04:00 she is called into work and returns home at 06:00. In total, Jane has worked 2 hours 30 minutes.

Jane was able to rest between 17:00 and 20:00 (3 hours), 20:10 to 01:00 (4 hours 50 minutes), 01:20 to 04:00 (2 hours 40 minutes) and 06:00 to 09:00 (3 hours). This is a total of 13 hours 30 minutes rest.

Jane did 2 hours 20 minutes of work after midnight so she is entitled to 2 hours 20 minutes compensatory rest and would be expected to arrive at work at 11:20 instead of 09:00.

Jane will still be paid for the 7.5 hours she was rostered to work on Friday.

Example 9

John is on call on a Thursday night from 17:00 to 09:00 on Friday morning. He is rostered to work 9:00 to 17:00 on Friday.

John is called into work at 18:00 Thursday evening and returns home at 02:00. John is not called out again that night.

John was able to rest between 17:00 and 18:00 and from 02:00 to 09:00. This is a total of 8 hours rest, so John would be entitled to 3 hours compensatory rest.

John worked 2 hours after midnight so he would be entitled to 2 hours compensatory rest for this, but he is already entitled to 3 hours due to not having sufficient rest in the 24 hour period.

John takes his compensatory rest between 09:00 and 12:00 and is expected to attend work at 12:00 instead of 09:00.

John will still be paid for the 7.5 hours he was rostered to work on Friday.

Example 10

Jane is rostered to work from 13:00 to 21:00 on Monday and then be on call from 21:00 Monday to 13:00 on Tuesday. Jane is then rostered to work again from 13:00 to 21:00 on Tuesday.

Jane is called into work at 23:00 on Monday night and returns home at 01:00. Jane is not called out again that night.

Jane was able to rest between 21:00 and 23:00 and from 01:00 to 13:00. This is a total of 14 hours rest. Jane worked 1 hour after midnight so would be entitled to 1 hour compensatory rest but as Jane is not rostered to work until 13:00 she does not need to start her shift late.

Example 11

Jane is rostered to work 9:00 to 17:00 on Friday. Jane is then on call all weekend from 17:00 on Friday to 09:00 on Monday. This on call period is split into 5 parts; Friday night (17:00 to 09:00) Saturday day (09:00 to 17:00), Saturday night (17:00 to 09:00), Sunday day (09:00 to 17:00) and Sunday night (17:00 to 09:00). Jane is then rostered to work from 09:00 to 17:00 on Monday.

Jane is called into work at 01:00 Friday night and returns home at 03:00. Jane is not called out again until 10:00 Saturday morning. So over the course of Friday night Jane has done 2 hours work. Jane was able to rest from 17:00 to 01:00 and from 01:00 to 09:00 (when the Friday night on call period ends). So Jane has had 14 hours rest in the 24 hour period. Jane did work 2 hours after midnight but as she is not rostered to work on Saturday she does not require compensatory rest.

During Saturday day time Jane is called into work at 10:00 and returns home at 18:00, so Jane has worked for 8 hours. Jane is not called out again until Sunday night. So in the 24 hour period from 09:00 Saturday to 09:00 Sunday Jane has been able to rest from 09:00 to 10:00 and from 18:00 to 09:00. This is a total of 16 hours so Jane is not entitled to any compensatory rest.

On Sunday night Jane is called into work at 22:00 and returns home at 04:00. Jane was able to rest between 09:00 and 22:00 on Sunday and again from 04:00 to 09:00 on Monday morning, so Jane has had 18 hours rest. Jane worked 4 hours after midnight and as she is rostered to attend work at 09:00 Monday she would be entitled to 4 hours compensatory rest.

Jane would therefore take her compensatory rest at 09:00 Monday morning and start her shift at 13:00. Jane will still be paid for the 7.5 hours she was rostered to work on Monday.