

Guidance for trusts on agency use during COVID-19 pandemic

We have this week written to all framework suppliers on the below points (see attached) and are now sending this communication to NHS Trusts to ensure a clear message to all. This is a collaborative effort by NHS England and NHS Improvement, working with DHSC, HealthTrust Europe and the Workforce Alliance (Crown Commercial Service (CCS) & NHS Procurement in Partnership (PiP) formerly known as the NHS National Collaborative Procurement Partnership (CPP) to align a single shared guidance for providers to enable agency staff to be placed efficiently, whilst maintaining essential compliance, to support in the provision of a safe and high-quality temporary workforce.

Avoiding off-framework

There is an expectation that Trusts continue using NHS England and NHS Improvement approved frameworks for outsourced bank and agency staff. These incorporate the majority of the outsourced bank and agency market and are designed to support the NHS in getting high quality clinical and non-clinical candidates via an approved and compliant route. They also provide the protection of framework terms and conditions and embedded assurance and support.

Recruiting 'off framework' increases the risk to the Trust and to patient safety and removes the protection of a robust supplier assurance process and support afforded by an approved framework.

Challenging rate escalation

Under the unique circumstances of the COVID-19 pandemic, it is NOT acceptable for agencies to enhance pay for candidates already in post. We advise that providers reject any application for increased rates.

Instances of rate escalation under 'COVID-19 Rate Cards' should not be accepted. Trusts are strongly encouraged to take a firm line in resisting any such attempts at profiteering on behalf of the supply base. Framework operators have communicated with their suppliers to emphasise their responsibility at this time to manage worker pay expectations and partner with Trusts to support their resourcing needs.

Should Trusts receive communications from framework suppliers on escalated rates and rate cards, please communicate this to your framework operator immediately (contact details below), who will address this with the supplier and their industry/professional body, where appropriate.

Where individual price escalation for a new worker is essential to ensure patient safety, this should be done in line with the existing price-cap override mechanism and 'on framework'. The frameworks include provision for overrides in these circumstances, meaning Trusts should not need to go 'off-framework', with the additional assurance risks this carries.

Short notice cancellations

The frameworks have strict contractual obligations relating to short notice cancellations. This requires the agency to source an alternative candidate at short notice. There are mechanisms with frameworks to manage this, and you should contact your framework operator if you require specific support.

It is essential that both worker and the agency are taking a strong line on persistent short notice cancellations to ensure that temporary staff are arriving on time and ready to support the NHS at this challenging time. Please contact your framework operator to raise any issues with short notice cancellations.

Measures to support rapid onboarding of staff

As the need to achieve rapid onboarding of NHS staff grows, the following approach has been agreed with framework suppliers to enable efficient processes, whilst maintaining essential compliance:

- Given the current rules on social distancing prevent face-to-face training, it is expected that suppliers must send candidates on distance learning alternatives. A waived period of 3 months will be allowed for expiring training.
- Video conferencing solutions will be accepted as a short-term solution for candidate interviews on the condition that:
 - i. Suppliers are required to robustly evidence that diligence has been applied to checking original documentation
 - ii. Recruited candidates are required to verify their identity upon arrival for their first shift at a Trust
 - iii. Face to face meetings are resumed as 'business as usual' at the first opportunity

- The Government is carefully considering the requirements around manual Right to Work checks and hope to get a message out on this in the near future.
- Candidates are required to be asked, specifically, about their willingness to work in wards impacted by COVID-19 and that conversation is to be logged, kept on file and shared with Trusts at application stage.
- Candidates are also required to complete a risk assessment document to be shared with Trusts at application stage, to include as a minimum:
 - i. Whether the candidate is showing any COVID-19 symptoms (in which case the candidate cannot be placed at this time)
 - ii. Whether they have, in the last 7 days, been in immediate contact with anyone who is proven to have COVID-19
 - iii. Any trips to countries outside of the UK when the candidate has returned in the last 4 weeks (or from 25th Feb)
 - iv. Any underlying health conditions that might affect the work they could undertake
- During such a critical time it is important to ensure DBS checks are kept up to date and are active. In line with the latest update from the Disclosure and Barring Service, temporary measures are agreed for DBS applications to allow ID documents to be viewed over video link and scanned images to be used in advance of the DBS check being submitted. The applicant will still be required to present the original versions of these documents when they first attend their employment
- Temporary measures are agreed for candidates to supply a minimum of two references that are representative of two assignments within the period of the last 18 months. One reference must be with an NHS provider. There will a temporary pause on annual renewals of references.
- Temporary measures are agreed for candidates to supply scanned copies of Professional Registration and Qualifications in the application stage. The applicant will still be required to present the original versions of these documents when they first attend their employment.

Agency staff working from home/remotely

For otherwise healthy staff who are at higher risk of severe illness from COVID-19 required by PHE's guidance to work from home, please consider how they can support the provision of telephone-based or digital / video-based consultations and advice for outpatients, 111, and primary care. For non-clinical staff, please consider how they can continue to contribute remotely. Further guidance will be made available

For staff members at increased risk according to PHE's guidance (including pregnant women), if necessary, NHS organisations should make adjustments to enable staff

to stay well and continue working wherever possible. Adjustments may include working remotely or moving to a lower risk area. The Royal College of Obstetrics and Gynaecology will provide further guidance about pregnant women.

Statutory sick pay (SSP)

SSP is payable by the agency where they are the employer (this will depend on the employment model used).

Providers engaging individuals via direct engagement models should seek independent advice on their specific model to ensure they remain compliant with the relevant legislation.

Agencies with 250 staff or fewer will be reimbursed for SSP by the government <https://www.gov.uk/government/news/coronavirus-covid-19-guidance-for-employees-employers-and-businesses>

Government changes

There are some changes being made by the government in response to COVID-19. All suppliers and trusts should be aware of the below changes.

NHS staff returning to the register

You may have seen that DHSC and NHSE/I have moved to re-register many recently retired clinicians via the NHS Portal (<https://www.england.nhs.uk/coronavirus/returning-clinicians/nmcfaqscovid19/>). NHSE/I, working with professional regulators, have an established process whereby these returning staff will be placed through regional hubs. As such, we do not expect agencies to have a role in placing this cohort.

DBS Checks

Please see guidance above. In summary, ID documents can be viewed over video link and scanned images are to be used in advance of the DBS check being submitted. The applicant must present original documents when they attend the post in the first instance.

Pensions

The Government COVID-19 emergency legislation contains a clause to suspend the following rules in the NHS Pension Scheme;

- The 16-hour rule in the 1995 Section which currently prevents staff who return to work from working more than 16-hours per week in the first month following retirement
- Abatement for special class status members in the 1995 Section
- The requirement for staff in the 2008 Section and 2015 NHSPS to reduce their pensionable pay by 10% if they elect to 'draw down' a portion of their benefits and continue working

All trusts should be aware of these changes from the point of the bill receiving Royal Assent.

Other

- PHE is looking to establish NHS targeted staff testing for symptomatic staff who would otherwise need to self-isolate for 7 days.
- For those staff affected by PHE's 14 days household isolation policy, staff may be offered and have the option to accept staying in NHS-reimbursed hotel accommodation while they continue to work.
- Staff may be asked to work beyond their usual disciplinary boundaries and specialisms under these difficult circumstances, and they will receive appropriate induction and support to do so. More information about this can be found here- https://www.aomrc.org.uk/wp-content/uploads/2020/03/0320_letter_supporting_doctors_in_COVID-19.pdf

Contact details

As mentioned, your Framework Providers are available to support with any questions or issues around your temporary staffing supply. The Workforce Alliance and HTE can be contacted on:

- NHS North of England Commercial Procurement Collaborative (NOE CPC): enquiries@noecpc.nhs.uk
- NHS Commercial Solutions (NHS CS): NHSCS.agency@nhs.net
- NHS London Procurement Partnership (LPP): workforcesupport@lpp.nhs.uk
- East of England NHS Collaborative Procurement Hub (EoE CPH): workforce@eoecph.nhs.uk
- Crown Commercial Service: info@crownccommercial.gov.uk
- HealthTrust Europe, Total Workforce Solutions – agency@htepg.com