

To: NHS foundation trust and NHS trust chief executive officers

Cc: NHS foundation trust and NHS trust nurse directors, medical directors, finance directors and operations directors

20 November 2015

Dear colleague,

Agency price caps to take effect from 23 November

Today’s report on Q2 trust and foundation trust financial performance highlights the need for concerted further action on finances in 2015/16, particularly to tackle the rapid growth of spending on agency staff. Monitor and the NHS Trust Development Authority (TDA) are writing to inform you of new rules on agency spend that are designed to help you meet these challenges. The rules and all supporting documentation can be found [here](#).

We have received very strong encouragement from trusts through our recent consultation to cap the rates paid for agency staff and to encourage workers back into substantive and bank roles. We would like to thank you for the feedback you have provided.

We will introduce caps on the hourly rates paid for all agency staff to take effect from midday this Monday, 23 November 2015. These will apply across all staff groups – doctors, nurses and all other clinical and non-clinical staff. The price caps will ratchet down, subject to our monitoring approach, in two further stages on 1 February 2016 and 1 April 2016. This means that by 1 April 2016 an agency worker should not be rewarded more than an equivalent substantive worker.

The following table summarises the trajectory of the price caps:

	From 23 Nov 2015	From 1 Feb 2016	From 1 Apr 2016
Junior doctors	150% above basic	100% above basic	55% above basic
Other medical staff	100% above basic	75% above basic	55% above basic
All other clinical staff	100% above basic	75% above basic	55% above basic
Non-clinical staff	55% above basic		

Note: Figures represent the maximum trusts can pay for an agency worker above substantive basic pay. The price caps cover all payments made by the trust, including worker pay and on-costs.

We will then continue to monitor the implementation of the price caps with the intention of reducing the caps further in 2016/17 if supported by ongoing monitoring.

Through the consultation, we heard that many trusts want flexibility in their banks to manage the impact of price caps on their workforce. Therefore, we are not including bank workers’ pay under

the price cap rules. We will keep this under close review and if bank pay rates increase substantially, we will move to extend the price caps to bank workers.

All trusts are required to report to Monitor and TDA when they exceed the price caps. The maximum rates will apply to all NHS trusts, NHS foundation trusts receiving interim support from the Department of Health and NHS foundation trusts in breach of their licence for financial reasons. All other NHS foundation trusts are expected to comply.¹ Ambulance trusts and ambulance foundation trusts will initially be exempt but we will consider whether and when it might be appropriate to include them. There are no other up-front exemptions, either for individual trusts or specialties.

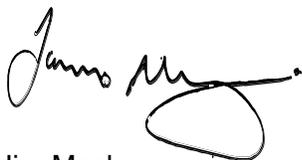
Primary responsibility for monitoring the impact of price caps lies with trusts' boards, and trusts will need to ensure they maintain patient safety at all times. The rules include a 'break-glass' provision for trusts that need to override the caps on exceptional safety grounds. These should be used only after all possible alternative strategies have been explored, within a robust escalation process sanctioned by the trust board and only used for patient safety reasons. Any payments in excess of the price caps will be scrutinised by Monitor and TDA, and excessive use and failure to make rapid improvements to workforce management may lead to regulatory action as appropriate. This would include trust boards being required to develop a clear workforce strategy on how the overrides will be avoided in the future.

It is important that we all work together to ensure compliance and thus maximise the benefit from the caps. All trusts are expected to limit and reduce their spending on agency staff over time, and we will continue to work closely with you to monitor and limit levels of agency use across the sector as the measures are implemented

We recognise that adhering to price caps will not always be without challenge. The effect on staffing supply, though difficult to predict, could be significant, particularly in the short term and for some trusts and specialties. The price caps have been developed with, and are fully supported by, clinical leaders across Monitor, TDA, the Care Quality Commission and NHS England. National bodies will work together to support trusts in meeting the price controls and other agency rules. Where you are struggling to comply with the price caps, please contact us and we will seek to help and ensure that you are doing all you can to apply best practice. If you envisage effects on services, you should contact your commissioners. We will monitor the overall impact of the policy to ensure patient safety concerns are being managed appropriately.

We very much hope you will find these steps helpful and a positive response to the support you have requested. This is a vital part of our shared mission to make the NHS work even better for patients. We look forward to working with you to make it happen.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jim Mackey', with a large, stylized flourish at the end.

Jim Mackey
Chief Executive
NHS Improvement

¹ The new value for money risk assessment trigger means that Monitor will take into account inefficient or uneconomic spending practices when considering any potential breaches of governance licence conditions that might lead to an investigation being opened.