

Policy update: 19 January 2016

New framework arrangements to tackle agency costs and support staff back into substantive and bank roles

On 15 January NHS Improvement's Chief Executive, Jim Mackey, wrote to NHS trust and foundation trust chief executives about the next steps on agency spending controls to relieve financial pressure on the service.

This policy update summarises the letter's contents.

Price caps for agency staff are having a positive effect, and a large majority of trusts report they are helpful. We have heard examples across the country of trusts using them to secure a better deal for themselves, their staff and patients.

But more remains to be done to reduce spending further and ensure many workers return to substantive and bank roles. Trusts have asked for more help nationally, so we are now strengthening our approach.

First, **we will reduce the price caps on 1 February**, as previously proposed. This will significantly reduce maximum rates for doctors and nurses and help trusts achieve further savings.

We will require all agency procurement – for doctors, nurses and all other staff – to be via approved framework agreements. These will set agency worker pay rates in line with standard NHS terms and conditions.

Many trusts have told us of certain agencies refusing to support the agency rules, reinforced by the fact that maximum rates on some existing frameworks exceed the price caps.

Monitor and TDA, working with framework operators, are strengthening the agency rules:

1. From 1 April 2016 trusts may procure doctors and other staff, as well as nurses, only through approved frameworks. We will only approve frameworks that commit to the steps below.
2. Framework suppliers will have to renegotiate with agencies or retender to ensure their prices are at or below the rates NHS Improvement sets. This will

take several months (beyond 1 April). Meanwhile, all approved framework owners must support the price caps.

3. When appropriate, we will change how the price caps are expressed so that NHS Improvement defines what the *worker* receives – equivalent to standard NHS terms and conditions.
4. Frameworks will require agencies to conform to the pay rates NHS Improvement sets. Agencies will bid to be on-framework on the basis of their agency fee, which will then be fixed, and in compliance with our terms.
5. We will stop agency workers using personal services companies to avoid taxes.

Trusts and staff should prepare early for these changes, including reflecting on contractual conditions such as timescales associated with transfer fees. Workers will have to move to supportive agencies or back to substantive and bank roles.

We will issue further guidance to providers and framework operators later this month.

All trusts must fully comply with these rules and have in place necessary processes and governance. They may override the rules only where essential for patient safety. We expect all trusts to agree plans for services with commissioners in the event of staffing issues.

NHS Improvement regional teams will ensure every trust is tackling agency costs, from board level down. **A core condition of the Sustainability and Transformation Fund is that trusts comply with all the agency rules.**