

Policy update: 18 February 2016

Requirement to use approved frameworks for all agency procurement from 1 April 2016

NHS Improvement's Chief Executive, Jim Mackey, wrote to NHS trust and foundation trust chief executives today mandating use of approved frameworks for all agency procurement.

This policy update summarises the letter's contents.

We announced steps to support trusts in tackling agency spending on 15 January 2015 – in particular, measures to ensure that all agency procurement is through Monitor/TDA approved frameworks that will embed the price caps and maximum wage rates specified by Monitor/TDA (soon to be NHS Improvement).

From 1 April 2016, all trusts in scope of the agency rules will be required to use Monitor/TDA approved frameworks for the procurement of all agency staff (nurses, doctors, other clinical and non-clinical staff). This is an extension of the existing requirement to procure all nursing staff via approved framework agreements.

This extended framework rule will apply equally to **ambulance trusts** from 1 April 2016, and we plan to introduce price caps for ambulance staff on 1 July 2016.

Guidance for framework operators

We have today published [guidance for framework operators](#), setting out the measures they need to put in place, now and in the future, to secure approval from Monitor/TDA.

In particular, they must commit to delivering as soon as possible (and by 1 November at the very latest) frameworks that fully embed the price caps, and maximum pay rates for the worker in line with standard NHS rates.

Framework operators (not trusts) are asked to seek approved status from Monitor/TDA for their framework arrangements by 3 March 2016 (although we will consider applications on an ongoing basis and where this is received on or before 1 April 2016, that framework can continue to be used pending the decision by Monitor/TDA). Trusts

are requested to notify the framework operators they use to apply to Monitor/TDA for approval of their agreements.

Next steps for trusts

We encourage you to work with your framework operators now in complying with the price caps, including notifying frameworks of agencies unwilling to meet the caps or adopting other unsupportive practices.

You will also need to take all possible steps to move all your agency procurement onto framework agreements or arrangements approved by Monitor/TDA by 1 April 2016. Overrides to the rule will only be possible on a shift-by-shift basis, where there are exceptional patient safety grounds. The approved frameworks will be announced during the week beginning 14 March 2016. Please let your suppliers know about these rules.

Where there are existing contractual arrangements in place with off-framework agencies, trusts should seek to renegotiate or conclude those arrangements as quickly as possible, taking into account any contractual requirements for notice and/or exit fees.

Personal service companies

We also ask you to discourage the use of personal service companies (PSCs) by workers, instead engaging them via the bank or through your payroll. From 1 April 2016 trusts may only engage directly with a PSC where they are assured that the worker is complying with IR35 legislation: trusts must seek proof from the PSC that it is complying with the obligations set out in [HMRC guidance](#).

Trusts are reminded that the price caps apply when engaging with a limited or personal services company directly (see paragraph 4.6 of the [price cap rules](#) published 23 November 2015).

If you have any questions about this, or the other agency rules, please contact agencyrules@monitor.gov.uk. We will shortly publish a consolidated agency rules document that brings together all the guidance in one place.